In Chancery.

Bzeviate.

John Penn, *Thomas Penn*, and *Richard Penn*, Esqrs; } Plaintiffs.

Charles Calvert Esq; Lord *Baltimore* in the Kingdom of *Ireland*, } Defendant.

For the Plaintiffs.

Upon a Bill to compell a *Specifick Execution* of *Articles of Agreement* entred into between the Partys for setling the Boundarys of the Province of *Pensilvania*, the *Three Lower Countys*, and the Province of *Maryland*, and for perpetuating Testimony, *&c.*

Mr. Attorney General Sir *Dudley Ryder*.

Mr. Sollicitor General *Murray*.

Mr. King's Council *Noell*.

Paris *and* Weston *Sollicitors*.

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I N D E X.

THE Copy of Lord *Baltimore*'s own **Plan**, annext to the Articles of Agreement. Our **Map** of the Places in Queſtion, proved in the Cauſe by *four* Surveyors; ſome of which are of *other* Provinces.

Brief of our **Bill** begins —— *fo.* 1
The Relief prayed —— *fo.* 13
A State of the *Interlocutory Proceedings* between the Bill and Anſwer. —— *fo.* 13
The Defendant's **Anſwer** begins —— *fo.* 13
The Schedule annext to the Defendant's Anſwer, containing *his* Commiſſioners Account of the Proceedings before them, and the Papers which were exchanged (in a regular Order of Time) from the 6th of *October* 1732, to the 24th of *November* 1733. *fo.* 25
A State of ſeveral *Proceedings in the Cauſe*, from the Time of putting in the Anſwer to the Time of paſſing Publication —— *fo.* 33

Written Evidence, proved in the Cauſe by the Plaintiffs, from Records, Ancient Hiſtory, *&c.* in a regular Courſe of Time, from 1584 to 1742, divided into 17 Chapters or Periods. *fo.* 33

CHAP. 1ſt. From the *Diſcovery* of *North-America* to the Grant, made by the Crown of *Maryland*, to Lord *Baltimore*, in the Year 1632. —— *fo.* 33
CHAP. 2d. From the Lord *Baltimore*'s Grant, in 1632, to the End of the Year 1663, during all which time the *Dutch* and *Swedes* remained in the quiet Poſſeſſion of what is now *New-York*; and alſo *Delaware*, which now makes the Three Lower Counties; free from any Claim by the Lord *Baltimore*, or by the *Engliſh* Crown. —— *fo.* 34
CHAP. 3d. From the latter End of the Year 1663 (when King *Charles* granted *New-York*, &c. to the Duke of *York*, and the *Dutch* were, conſequently, diſpoſſeſſed of their *great* and *ſmall* Settlements) down to the Year 1673, during all which time the Duke of *York* poſſeſſed and governed *New-York*, and the Lower Counties *alſo*. —— *fo.* 37
CHAP. 4th. Of the *Dutch regaining* Poſſeſſion (for a *few Months*) of *New-York* and *Delaware alſo*. —— *fo.* 42
CHAP. 5th. From the *New* Grant, made by King *Charles* the Second to the Duke of *York*, in *June* 1674, down to the Time of granting *Penſilvania*, and the Lower Counties, to Mr. *Penn*, and his being in *full Poſſeſſion of all the ſame*, at the End of the Year 1682. —— *fo.* 42
CHAP. 6th. What paſt in *America*, in the Years 1683, 1684 and 1685, (excluſive of what paſt in *England* during thoſe Years.) —— *fo.* 57
CHAP. 7th. What paſt (in *England*) in the Years 1683, 1684 and 1685; being the *firſt* Conteſt or Suit between Lord *Baltimore* and Mr. *Penn*. —— *fo.* 58
CHAP. 8th. From the *firſt* Determination of the King in Council on the 13th of *November* 1685, down to the *ſecond* Determination in the Plaintiff's favour, in the Year 1708. —— *fo.* 60
CHAP. 9th. From the *ſecond* Determination in their favour, in *January* 1708, to the *third* Determination in their favour, on 23d *June* 1709. —— *fo.* 63
CHAP. 10th. From *June* 1709 to the time of the Death of Mr. *Penn* the Patentee, in 1718. —— *fo.* 64
CHAP. 11th. From the Death of *William Penn* the Proprietary in 1718, to the Death of Mrs. *Hannah Penn* his Widow and Executrix in 1726. —— *fo.* 65
CHAP. 12th. From the Death of Mrs. *Hannah Penn* in *December* 1726, down to the time of beginning the Treaty with Lord *Baltimore* for the Agreement now in Queſtion. *fo.* 66
CHAP. 13th. From the Beginning of the Treaty, to the Time of executing the Articles of Agreement in Queſtion and the Commiſſions for running the Lines purſuant to the ſame. —— *fo.* 66
CHAP. 14th. From the Time of ſealing the Articles, here in *London*, in *May* 1732, down to the End of the Year 1733. —— *fo.* 68
CHAP. 15th. From *Chriſtmas* 1733, to the time of filing the preſent Bill, in *June* 1735. —— *fo.* 71
CHAP. 16. Matters which have paſt *ſince* the filing our preſent Bill. *fo.* 73
CHAP. 17. Containing a *Caſe* ſtated to, and the *Opinions* of Sir *Clement Wearg*, Mr. (now Lord Chief Juſtice) *Willes*, and Sir *Philip Yorke* (now Lord Chancellor) thereon, relating to the *Conſtruction* of Lord *Baltimore*'s Charter and his *Bounds*. *fo.* 74

Depoſitions of Witneſſes for the *Plaintiffs*, *with ſome Obſervations thereon*, digeſted under the following 29 Branches, *viz.* —— *fo.* 75

1ſt Branch. Of the *firſt* Diſcovery of the Peninſula, and the *firſt* Maps publiſhed thereof, (*before* the Year 1632.) and *how many ſeveral Editions* of Captain *Smith*'s Book had been publiſhed *before that Year*. — —— *fo.* 75
2d Branch. To prove my Lord *Baltimore*'s own printed Book and Map, and Deſcription of *Maryland*, and how far he *then* claimed; publiſhed in the Year 1635, within three Years after the Date of his Charter, and ſoon after he had landed in, taken Poſſeſſion of, and ſettled, his Province of *Maryland*. *fo.* 76
3d Branch. Containing the ſtrongeſt Proof that there *never was* any real Order of Council of 4th *April* 1638, about *William Clayborne* and the Iſle of *Kent*; but that ſuch Order was made or *invented* by Lord *Baltimore*, in 1685. *fo.* 76
4th Branch. That the *Swedes*, the *Dutch*, and the Duke of *York*, ſucceſſively, held the Lands now called the three Lower Counties, under the Names of *New Sweden*, new *Netherland*, *South River*, *Delaware*, *Sandhook*, from the Year 1630 downwards.—That the principal Seat of Government was *then* at *New York*.—And Lord *Baltimore*'s Anceſtors *never* poſſeſt.—Alſo of the *Conqueſt* from the *Dutch* in 1664. —— *fo.* 77
5th Branch. Proving where the true *Suſquehanna Indian* Fort formerly ſtood, which is mentioned in ſome of the Proceedings in 1680. — — *fol.* 77
6th Branch. Proving *by whom* the Lower Counties were poſſeſſed, when Mr. *Penn* firſt went thither in 1682; and alſo the *actual Delivery of Seiſin to him* then. *fo.* 77
7th Branch. To prove a Petition from the Inhabitants of the Lower Counties in 1682, to be *united* to the Province of *Penſilvania*; alſo an Indian *Purchaſe* then made, and a Copy of a Demand made upon Mr. *Penn*, by Colonel *Talbot*, which was in 1683. —— *fo.* 78
8th Branch. Relating to the *Names* which the three Lower Counties have been called by, under the *Dutch*, the Duke of *York*, and Mr. *Penn*; the making them into *Counties* in 1682; and their being called *the Territories of* Penſilvania. *fo.* 78
9th Branch. To prove Colonel *Talbot*'s running a Line in 1683, from the *Mouth* of *Octorara* Creek, by Order of Lord *Baltimore*, for a Diviſion, called *Octorara* Line, Colonel *Talbot*'s Line, and Lord *Baltimore*'s Line; and afterwards building *a ſmall Log-houſe*, of a few Logs, within and below that Line, for a *Fort* (which themſelves afterwards deſerted); and that that Line was *always regarded* by us; and *for more than* 40 *Years* by them alſo. —— —— *fo.* 78
10th Branch. About the *Indian* Purchaſes made by the *Dutch*, and *Swedes*, and Mr. *Penn*; and of *his exerciſing the Government* of the Lower Counties, from 1682, to 1702. — — — — *fo* 79
11th Branch. Proving Mr. *Penn*'s *conſtant Poſſeſſion*, as Landlord and Proprietor, ever ſince 1681, and 1682; *his granting out of the Lands*; *appointing* great Numbers of *Collectors* and Receivers of Quit-Rents *in all* the Lower Counties; and *receiving Quit-Rents*. — — — — *fo.* 79
12th Branch. That *conſtant*, *Annual* Aſſemblies have been held, for the Lower Counties, under Mr. *Penn*, from 1682; Courts of Juſtice *always held* there, under *his* Authority; and *none* of the Inhabitants of thoſe Counties ever elected into the *Maryland* Aſſembly. — — — *fo.* 80
13th Branch. To prove the very Acts of Aſſembly (paſt in Lord *Baltimore*'s own Proviuce of *Maryland*) do, from time to time, call the Lower Counties *the Territories of* Penſilvania, and tax Goods, coming from thence, or carried thither, as Goods coming to, or going from, *another diſtinct Province*; and that thoſe Laws are, from time to time, inforced and put in Execution. — *fo.* 81
14th Branch. Some *general* Proof of the *great Expence* Mr. *Penn* was at, and how much he has impaired his *Engliſh* and *Iriſh* Eſtates, to ſettle this Country. *fo.* 81
15th Branch. That the now Plaintiffs have poſſeſt ever ſince 1726. —— *fo* 82
16th Branch. Of the *Number* of Perſons ſettled in *each* of the three lower Counties. *fo.* 82
17th Branch. Of the *very ſtrange way of granting out Lands* by the *Maryland* Officers, and the *Conſequences* which they inſiſt on, from the Perſons *locating* ſuch Grants. —— —— —— *fo.* 82
18th Branch. Of the notorious Scituation of *Penſilvania*, and the lower Counties, *both* upon one and the *ſame*, Weſt, Side of the River and Bay of *Delaware*; and of my Lord's going perſonally, by Land, from the one, to the other of them, in 1733; which, nevertheleſs, he has been pleaſed to ſwear, in his Anſwer, are ſeparated by, and lie on *different* Sides of, that great Bay and River. —— *fo.* 82
19th Branch. Of the *Treaties* in order to, and the drawing, peruſing, and ſettling the Draught of the Agreement, the Map, and Mr. *Senex*'s written Opinion, and the Execution (by the Parties) of the Agreement in queſtion, and of the Commiſſions for running the Lines purſuant thereto. —— —— *fo.* 82
20th Branch. Of the ſeveral Proceedings of the Commiſſioners in *America*, *Day by Day*, in order to have carried the Agreement into Execution. —— *fo.* 85
21ſt Branch. That the Circle, and the Diſtance of it, were *well known at the time* of the Agreement; That Lord *Baltimore*'s *own* Map had many particular Marks and Lines *relating to that very Circle*; That he had, above 8 Years before that time, the *largeſt Draught* of the Peninſula that had ever been ſeen, with ſeveral *Eaſt and Weſt Lines* markt for Diviſion thereof; That the Plaintiffs had never been in *America*, to gain any Knowledge on their Parts; and alſo to prove an old Map of the Town of *Newcaſtle*. —— —— —— *fo.* 93
22d Branch. That the Defendant was *not deceived in the Plaintiffs Title*, which he very well knew, long before the Agreement. —— *fo.* 94
23d Branch. Of the Eaſt and Weſt Bounds of the Peninſula, and where the Bay of *Delaware* ends, *viz.* at *Bombay*'s Hook, about 30 Miles *below* the Town of *Newcaſtle*. —— —— —— *fo.* 94
24th Branch. Proof of *our general Map*, and where the *true* Iſthmus is; being formed by the *Tide Waters* flowing very near, to within 4 Miles of each other, in *Apoquinomy* River, and *Bohemia* River. —— —— *fo.* 94
25th Branch. Proof *where* the before-mentioned Iſthmus, formed by the *flowing Water* is; and alſo, *where another Iſthmus*, formed by the *Navigable Water*, is. *fo.* 95
26th Branch. Proof of *ſeveral* Springs that riſe, in the Peninſula, and run, from the *ſame* common Head, both ways, into the Bays on each Side of the Peninſula. *fo.* 95
27th Branch. Proof *where* Lord *Baltimore*'s *oldeſt* Line, which he claimed in 1635, *lies*. —— —— —— —— *fo.* 96
28th Branch. Proof *where* the *Octorara* Line, run by Lord *Baltimore* in 1683, *lies*; alſo, where the Line for *Temporary* Juriſdiction (lately run in 1739, by Order of the King in Council) lies. —— —— *fo.* 96
29th Branch. Containing Proof of *many* old Maps, Foreign and *Engliſh*, (made *before* the Year 1680) which lay down *both* Cape *Cornelius* and Cape *Hinlopen*, and in the *ſame manner* as the Map in queſtion did; alſo, where *our* Cape *Hinlopen* really lies; That the *whole Country*, thereabouts, was formerly called *Hinlopen*, as well as that particular Spot; That there *is the appearance of a Cape* at *our* Cape *Hinlopen*; That the *South Bounds* of the *Whorekiln* Diſtrict, or *Suſſex* County, extended *thither*; That the *Dutch* had a *Boundary Tree*, in their time, *there*; That Mr. *Penn* granted out Lands *to that Place*, (as ſoon as ever he had his Feoffments) particularly to the Duke of *York*, and ſeveral others; and *ſtill poſſeſſes* very near to it; and that the firſt *curſory* Claim of *Maryland*, a little North of that South Boundary, began but in the Year 1696; alſo an Account, for what Reaſons, ſomething like the Name of that old Cape, has, lately been transferred, up to the Mouth of *Delaware* Bay. *fo.* 96

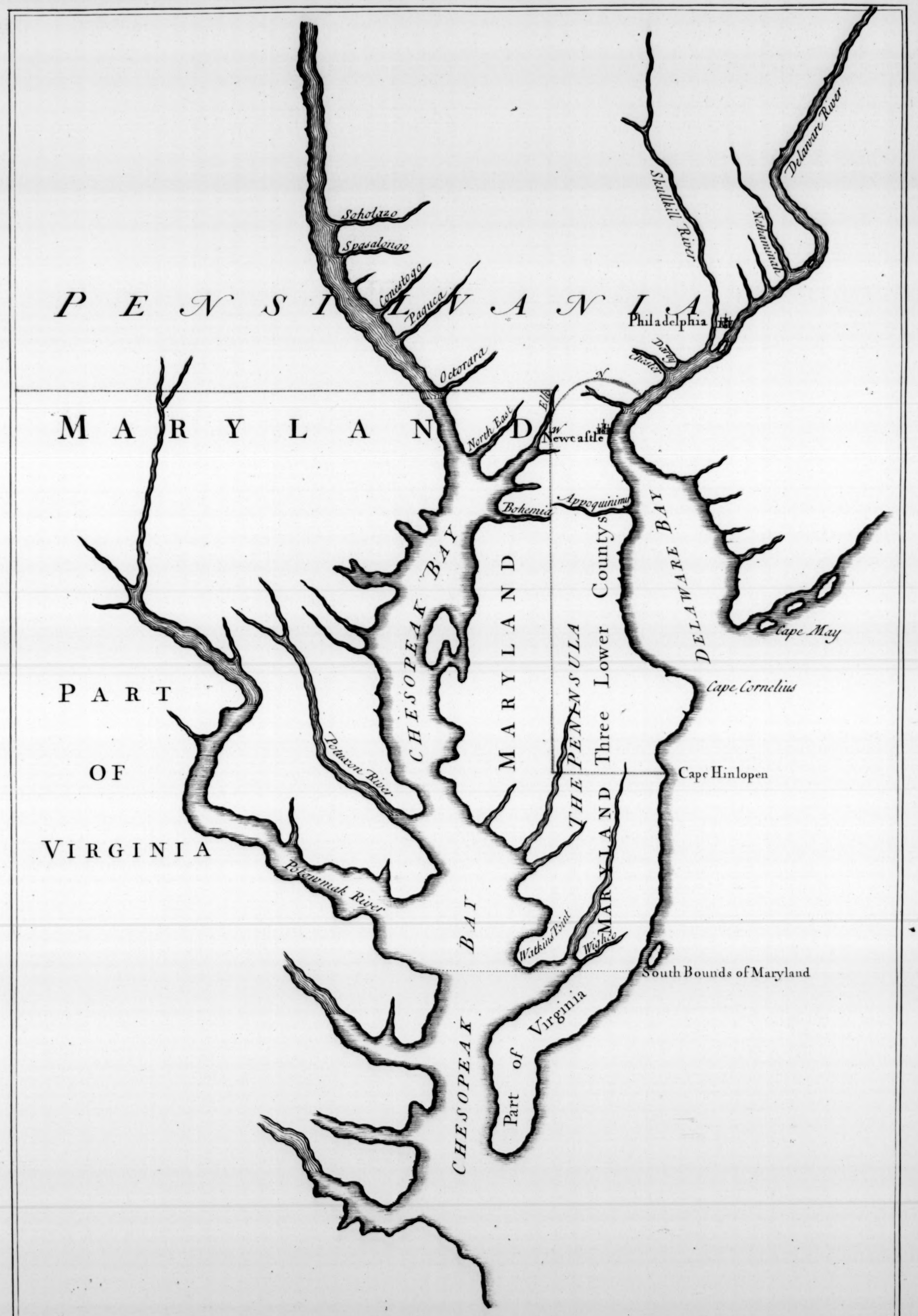
Depoſitions of Witneſſes for the *Defendant*, with ſome Obſervations thereon, divided into 46 ſeveral Branches or Parts. *fo.* 99

1. As to *our Commiſſioners* for running the Lines, which the Defendant *croſs-examined*, in order to *diſqualify* themſelves as *intereſted Perſons*. —— *fo.* 99
2. As to *ſome other* of our Witneſſes, whom the Defendant alſo *croſs examined* as to their *Intereſt*. —— —— *fo.* 99
3. Proofs upon the Defendant's Enquiry whether Obſervations had not been taken at *Philadelphia*, and where the 40th Degree fell? —— *fo.* 100
4. The Examination of ſome Perſons, Dependants upon the Defendant, as to their Conſtruction and Opinion of the Extent of his Charter for *Maryland*. *fo.* 100
5. To prove the Iſle of *Kent* is very near to the Peninſula. —— *fo.* 101
6. The Defendant clearly proves there was another very ancient *Swediſh* and *Dutch* Fort in *Newcaſtle* County. —— *fo.* 101
7. To prove two Points; 1. That my Lord *Baltimore* did, about 1673, burn and deſtroy a Place, then called the *Whorekills*, now called *Lewes* Town. 2. The *Place* where thoſe *Whorekills* were; and that, for a two-fold Purpoſe, *viz.* in Order to affect *our* Cape *Cornelius*, as well as to ſhew what he did to *aſſert his Right* in the three Lower Counties. —— —— *fo.* 101
8. A Memorandum as to 8 of the Defendant's Witneſſes, there named, who were never at all examined by us, to any Point whatever; but, in the Defendant's own Examination of them, have proved themſelves *intereſted* in the Diſpute, ſo that we object to them as being diſqualified, and their Names have, as often as they are mentioned, this Mark * before them. —— *fo.* 102
9. Proof of Exhibits from the Secretary's Offices in *New York* and *New Jerſey*; alſo from the Council Books, the Land Office Books, and from two private Books (pretended to have belonged to Surveyors) in *Maryland*; alſo of the uſual Manner of *Patenting Lands* in *Maryland*, and granting Warrants for thoſe Lands *at large*. *fo.* 103
10. Proofs, on the Defendant's Enquiry, who were *the firſt Diſcoverers*, who were *the firſt Settlers*, and what were *the firſt Names*, of the three Lower Counties. *fo.* 103
11. To prove that the *New* Cape *Hinlopen* lies oppoſite to Cape *May*. — *fo.* 103

12. To

12. To prove what Settlements were made, and under what Government, near and about *Philadelphia*, before the Year 1680. *fo.* 104
13. To prove how the *Whorekills* had been ſettled, and under whom. *fo.* 104
14. To prove a *Suſquehannah* Fort, ſcituated a great way North up in the Country about the River *Suſquehannah*. *fo.* 104
15. To prove a Releaſe for 500 Acres from *William Penn* to *William Standley*, and the Frame of Government in *Penſilvania*, and the uſual Conditions of granting out Lands there at firſt. *fo.* 104
16. That the Town of *Newcaſtle* lies very near 20 Miles South of *Philadelphia*. *fo.* 105
17. That no other Line has been run from *Newcaſtle*, than one to mark Part of a Circle of 12 Miles Radius from the Town of *Newcaſtle*, and ſeparate the County of *Newcaſtle* from *Cheſter* County in *Penſilvania*: That ſeveral Parcels of Land, lying South of the Parallel of the moſt Northern Part of the ſaid Circle, are held under the Plaintiffs, and what Number of Perſons there ſettled. *fo.* 105
18. One ſingle Witneſs to prove an *Iſthmus*, ſomewhere or other, at the *Spring Heads*. *fo.* 105
19. The Proof, upon the Defendant's Enquiry, whether the Mouth of *Chriſtiana* Creek or River lay to the South, or to the North, of the Line lately run by Order of the King in Council. *fo.* 105
20. An Attempt to prove where ſome Places called *Kingſeſs*, *Mill Creek*, *Charges Creek* or *Weſterhock* lay. *fo.* 105
21. To prove that a Tree called [ſome Lord's bounded Tree] at *Marcus* Hook on *Delaware* was ſpoke of 40 Years ago. *fo.* 105
22. To prove that my Lord's Anceſtor, in 1682, went up *Delaware* to *Cheſter*, in order to make an Obſervation, and how he was received there by the People; and that, in going back, at *Marcus* Hook, *&c.* he forewarned a few Inhabitants from paying any *more* Quit Rent to Mr. *Penn*. *fo.* 105
23. To prove that, about 1682, Plaintiffs Father landed at *Newcaſtle* Town, and afterwards went to *Cheſter*, and had an Obſervation taken, in order to found his City of *Philadelphia*, but was told he was within the *Maryland* Boundaries. *fo.* 105
24. To prove an Eaſt and Weſt Line run by Lord *Baltimore*'s Anceſtor, being the *Octorara* Line. *fo.* 106
25. To prove a Fort at *Chriſtiana*. *fo.* 106
26. An *unſucceſsful* Attempt, to prove that Lord *Baltimore* had exerciſed the Government, and had received Quit Rents, in the Lower Counties. *fo.* 106
27. To prove, directly *contrary* to the Anſwer, That the Province of *Penſilvania* is *not* contiguous to *New Jerſey*, but *is* contiguous to the Lower Counties; and that *Penſilvania* and the lower Counties are on the *ſame*, Weſt, Side, of the Bay of *Delaware*, and *not* on the *Eaſt* Side of the ſaid Bay and River. *fo.* 107
28. An Attempt to prove a very *few* Inſtances of *Settlements* of Lands, in the Lower Counties, under *Maryland* Rights. *fo.* 107
29. Proof, upon the Defendant's Enquiry where, and in what Province, four or five particular Gentlemen lived, and who they held their Lands under? *fo.* 108
30. To prove the Number of Inhabitants in the three Lower Counties. *fo.* 109
31. To prove the Payment of Quit Rents in the Lower Counties. *fo.* 109
32. To prove the appointing a Governor, for the three Lower Counties, *always* by Mr. *Penn* and his Family. *fo.* 109
33. To prove *how many* Ports and Harbours there are, on both Sides, in going up *Delaware* Bay. *fo.* 109
34. To prove the actual Payment of *Duties* on Goods imported into *Maryland* from the Lower Counties. *fo.* 110
35. An Attempt to find out two *loſt* Counties in *Maryland*, (*Durham* and *Worceſter*) which no Soul ever heard the Names of. *fo.* 110
36. An Attempt to prove a *Fort* on *Suſquehannah* River lately kept by one *Creſſap*. *fo.* 110
37. To prove the *Agreement*, and the *Treaty* in order thereto, and the Defendant's *great Ignorance* of his Province. *fo.* 110
38. To prove what paſſed, during the Time the Commiſſioners met in order to have executed the Articles. *fo.* 112
39. To prove the *Copy*, only, of a Queſtion and two Surveyors Anſwer, about the Dimenſions of the *Circle*. *fo.* 113
40. To prove the *Extent* of *Newcaſtle* Town. *fo.* 113
41. To prove that the firſt Time the Defendant had *any* Account of the Proceedings of the Commiſſioners for ſettling the Boundaries purſuant to the Agreement, was, *after* his Arrival in *Maryland*. *fo.* 113
42. To prove there *are* Ferries over *Suſquehannah* River. *fo.* 113
43. To prove a *ſhort* Account of the Commiſſioners Proceedings. *fo.* 113
44. To prove the Defendant's Application for a *Grant* of the Lower Counties in *Auguſt* 1734. *fo.* 114
45. To prove *Exhibits* in *England*. *fo.* 114
46. To prove *Deceit* put upon the Defendant by his own Map, (as moſt falſely pretended.) *fo.* 114

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9 NOV 1


PENSILVANIA
MARYLAND
PART OF VIRGINIA
Scholazo
Spasalengo
Conestogo
Paquca
Octorara
North East
Elk
Bohemia
Petuxon River
Patowmak River
Skullkill River
Delaware River
Nethaminah
Philadelphia
Darby
Chester
Newcastle
Appoquinimus
CHESOPEAK BAY
MARYLAND
THE PENINSULA
Three Lower Countys
DELAWARE BAY
Cape May
Cape Cornelius
Cape Hinlopen
Watkins Point
Wighco
South Bounds of Maryland
Part of Virginia

A Map of parts of the Provinces of Pensylvania and Maryland with the Counties of Newcastle, Kent and Sussex on Delaware

according to the most exact Surveys yet made drawn in the Year 1740.

PENN SYLVANIA

MARY LAND

VIRGINIA

JERSEY

The black line is the Temporary Limits of the Jurisdictions of Pensylvania & Maryland Fixed in the Year 1739 according to His Majestys order in Council of Year 1738

A Line to divide Pennsylvania and Maryland according to Articles of Agreement between the Proprietaries in the Year 1732 would run according to this pricked line

This red line is the Northern Boundary of Maryland according to Lord Baltemore's Map thereof printed about the Year 1635

A Parallel of Latitude to the Southermost part of Philadelphia City

Lord Baltimore's Line if extended Eastward would run here

North by Compass 1635 Parallel of 39 degrees of Latitude as fixed by Commissioners Year 1739 True North

Susquehannah River

Delaware River

Chesapeak Bay

Delaware Bay.

Ocean.

Lancaster Town

Late Thomas Cresaps place

Conestogoe Cr

Pextang Cr

Yellow Breeches Cr

Conedogwinet Cr

Codorus Cr

Conewago Cr

Shirkshanny Cr

Gunpowder Cr

Bush River

Gunpowder River

Middle River

Back River

Patapsco River

Chester Town alias New Town

Chester River

Mispphy River

Rattle Snake

Severn River

Annapolis

South River

Kent Island

West River

Herring Bay

Oyster Island

Eastern Island

Cheptank River

Potomack River

Falls of Potomack

Broad Cr

Bohemia Cr

Sassafras River

Elk River

Christiana Creek

Brandywine Cr

Red Lion

Back Creek

Georgia Town

Duck Creek

Salisbury

Little Duck Creek

Indian River

Rehoboth Bay

Cape May

Cape Cornelius formerly so called

Cape Hinlopen

Newcastle

Wilmington

German Town

Frankford

Pennsbury

Burlington

City

Chester

Duke of York's Manor of 10000 acres

Draught of some of the Lands surveyed on the South side of Indian River in the County of Sussex

Number		
	James Duke of York	10000
	William Penn Esqr	4700
1	Peter Chevalier	1000
2	Thomas Hall	470
3	John Becker & Jno Depree	680
4	John Cropper	1050
5	John Coburn	680
6	John Kipshaven	650
7	Alexander Mauldon	1500
	John Vines	620
		20750 acres

A Scale of English miles

0 10 20 30 40 50

Philadelphia 20th Octr 1740. In Chancery.

Between John Penn, Thomas Penn & Richard Penn Esqrs Compltts & Charles Calvert Esq Lord Baltimore in the Kingdom of Ireland Defendt

This Map was shewn to Jacob Hewling, Thomas Miles, Thomas Nexon & Benjamin Eastburne on their examination as Witnesses on the part of the Complainants at the execution of a Comission for examining Witnesses in this Cause in Pennsylvania &c. Witness our hands

Lewin Gale
B. Young
Clemt Plumsted
John Kinsey

In Chancery.

John Penn, *Thomas Penn*, and *Richard Penn* Eſqrs; the three Surviving Sons of *William Penn* Eſq; deceas'd, who in his Life-time was Proprietary of the Province of *Penſilvania*, and of the three Lower Counties called *Newcaſtle*, *Kent*, and *Suſſex* on *Delaware*, adjoining to the ſaid Province of *Penſilvania* in *America*, - - - - - - - - - - - - } Plaintiffs.

Charles Calvert Eſq; Lord *Baltimore* in the Kingdom of *Ireland*, - - - - - - - Defendant.

For the PLAINTIFFS.

BILL *filed* 21 June, 1735, *amended* 18 December 1736.

3 THAT, in *America*, there is a certain Peninſula, or Tract, ſhooting out from the main Continent Southwards, into the Atlantick Sea or Ocean, which Peninſula, or Tract, is bounded, on the Weſt ſide, by the Great Bay of *Cheſopeak*, and, on the Eaſt ſide, is bounded, on the lowermoſt, or moſt Southerly part thereof, by the Atlantick Sea or Ocean, and, more Northwards, the ſame Peninſula, or Tract, is bounded, on the Eaſt, by the Eſtuary of *Delaware*, and, as the ſame Peninſula or Tract runs further Northwards, towards the main Continent, it is bounded, on the Eaſt, by the great River of *Delaware*, which River of *Delaware* runs between the ſame Peninſula or Tract, lying on the Weſt ſide thereof, and the Territory now called *Weſt New Jerſey*, but heretofore called ſucceſſively *New Belgia*, *New Netherlands* and *New England*, lying on the Eaſt part thereof.

4 That the ſame Peninſula, or Tract, and the Parts nearly contiguous thereto, was firſt diſcovered by Captain *John Smith*, an *Engliſhman*, in or about the Year of our Lord 1606; who went on Shore, in ſome Parts thereof, and gave or affixed Names to ſeveral Parts of the ſaid Peninſula, or Tract, and alſo, to ſeveral Places on that part of the
5 main Continent which lay over-againſt the ſame Peninſula, on the Weſternſide of the ſaid Bay of *Cheſopeak*; and the ſaid Captain *Smith*, after his Return from that Voyage, cauſed to be printed and publiſhed a Book, giving an Account of his Voyages and Diſcoveries, which ſaid Book was printed in or about the Year of Our Lord 1624; and to ſuch Book he annexed a Map, or Plan, of the ſaid Peninſula, and ſeveral adjacent Parts of what was then called by the general Name of *Virginia*; which Book is intitled, *The Gene-*
6 *ral Hiſtory of* Virginia, New England, and the Summer Iſles, with the Names of the Adventurers, Planters and Governors, from their firſt beginning *anno* 1584, to this preſent 1624, with the Proceedings of thoſe ſeveral Colonies, and the Accidents that befell them in all their Journies and Diſcoveries; alſo the Maps and Deſcriptions of all thoſe Countries, their Commodities, People, Government, Cuſtoms and Religion yet known; divided into ſix Books, by Captain *John Smith*, ſometimes Governor in thoſe Countries, and
7 Admiral of *New England*. *London:* Printed by *J. D.* and *J. H.* for *Michael Sparks* 1624. And the ſame Book is a well known Book amongſt Hiſtorians, Geographers, and Mathematicians; and the ſaid Book, and the Map of *Virginia* therein contained, are held in Eſtimation amongſt learned Men, and are conſtantly reckoned and eſteemed as the firſt, and earlieſt Account and Deſcription and Map ever given of thoſe Parts in and near to the ſaid Peninſula by any *Engliſhman* whatſoever. And the ſaid Map of *Virginia* con-
8 tained the Degrees of Longitude and Latitude according to the beſt Obſervations and Diſcoveries *then* made.

That on the *Eaſtern ſide* of the ſaid Peninſula, or Tract, and alſo *above* the ſaid Peninſula or Tract, *within the main Land* or Continent, and towards the *Sea* and the *Eſtuary* and *River* of *Delaware*, there was, of very early and ancient times (the beginning whereof is not known) a Settlement and Plantation, made and planted, and inhabited
9 by Chriſtians of the *Swediſh* Nation, and the ſame Settlement and Plantation was, afterwards, held and inhabited in the Year 1609, and for many Years then after, by Chriſtians under the Dominion of the *States General* of the United Provinces.

And the ſaid ancient Settlement of the *Swedes*, and afterwards of the *Dutch*, has, for a great many Years paſt, ever ſince the Year 1663, been in the Poſſeſſion of the late *James* Duke of *York*, and of the Plaintiffs Father, and of the Plaintiffs, and is in the Poſſeſſion of the Plaintiffs at this Day.

10 And the ſame Settlement has been, ſometimes, called the Settlement on *Delaware*, ſometimes by the only Name of *Delaware*, ſometimes by the Name of the Province of *Delaware*, ſometimes by the Name of the three lower Counties, ſometimes by the Name of the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, and ſometimes by the Name of the Territories belonging to *Penſilvania*, all which Names did and do ſignify and mean the ſelf-ſame Settlement and Plantation, heretofore ſeated and inhabited by the *Swedes* and *Dutch* as aforeſaid.

11 That, ſeveral Years after ſuch Diſcovery was made as aforeſaid by the ſaid Captain *John Smith*, and ſome few Years after the ſaid Captain *Smith*'s ſaid Hiſtory and Map of *Vir-*
12 *ginia* had been printed and publiſhed in the Year 1624 as aforeſaid, and at a time when, as the Plaintiffs expreſsly Charge, there was No other Map or Plan of the ſame Peninſula or Tract and the Parts adjacent thereto, done by any *Engliſhman* whatever, extant, Nor any other Hiſtory or Deſcription of the ſame Peninſula or Tract, and Parts adjacent, publiſhed, printed, known or uſed, than the ſaid Captain *Smith*'s ſaid Book or Hiſtory and Map only; *Cecilius*, then Baron of *Baltimore*, in the Kingdom of *Ireland*, did, in or about the Year of our Lord 1632, petition his late Majeſty K. *Charles* the Firſt, praying Leave to tranſport a Colony of the *Engliſh* Nation unto a certain Country, in the Parts of
13 *America*, which he by his ſaid Petition expreſsly and poſitively ſuggeſted was *not then cultivated and planted*, tho' in certain Parts thereof inhabited by certain barbarous People having no Knowledge of Almighty God; and beſought his ſaid Majeſty to give and grant All ſuch *the ſaid* Country, with certain Privileges and Juriſdictions for the Government thereof, to him and his Heirs for ever.

And, thereupon, his ſaid late Majeſty King *Charles* the Firſt, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter*, on or about the 20th Day of
14 *June*, which was in the 8th Year of his ſaid late Majeſty's Reign, and in the Year of our Lord 1632, *expreſsly reciting* the ſaid Petition and Prayer of the ſaid *Cecilius*, for a Grant of *ſuch* a Country as herein before is deſcribed in the ſaid Petition of the ſaid *Cecilius*, did Give and Grant, unto the ſaid *Cecilius*, in Fee, two ſeveral Tracts of Land,
15 namely, *one* Tract which was part of the before-mentioned *Peninſula*, and one other Tract which was part of the *Main Land*, lying Weſtward of ſuch Part of the ſaid Peninſula, and on the Weſt-ſide of the ſaid Bay of *Cheſopeak*; and the ſaid Tracts of Land, ſo granted to the ſaid *Cecilius*, were in and by the ſaid Letters Patent ſeverally and reſpectively deſcribed, butted and bounded as herein after mentioned; that is to ſay, *The firſt* of the ſaid Tracts was deſcribed, and was granted to the ſaid *Cecilius*, as all that *part of a Pen-*
16 *inſula*, lying in the Parts of *America*, between the *Ocean* on the Eaſt, and the Bay of *Cheſopeak* on the Weſt, and divided from the other Part thereof by a right Line, drawn from the Promontary or Head of Land called *Watkin*'s Point, ſituate in the aforeſaid Bay, near the River of *Wighco*, on the Weſt, unto the Main Ocean on the Eaſt; And, Between that Bound on the South, as far Northward as that Part of the Eſtuary of *Delaware*, which lies under the 40th Degree of Northern Latitude from the Equinoctial, where
17 *New-England* ends; *And the ſecond* of the ſaid Tracts was deſcribed, and was granted to the ſaid *Cecilius*, as all that Tract of Land, *within the Bounds aforeſaid*; namely, paſſing from the aforeſaid Eſtuary called *Delaware* Bay, in a right Line, by the Degree aforeſaid, as far as to the true Meridian of the firſt Fountain of the River *Potowomack*, and from thence trending or paſſing towards the South to the farther Bank of the ſaid River, and following the Weſt and South ſide thereof, unto a certain Place called *Cinquack*, ſituate
18 near the Mouth of the ſaid River, where it falls into the aforeſaid Bay of *Cheſopeak*, and from thence, by the ſhorteſt Line, unto the aforeſaid Promontory or Place called *Watkin*'s Point; (ſo that all that Tract of Land, divided by the Line aforeſaid drawn between the Main Ocean and *Watkin*'s Point, unto the Promontory called Cape *Charles*, and all its Appurtenances, ſhould remain entirely excepted to his ſaid Majeſty, his Heirs and Succeſſors, for ever.)

19 And, in and by the ſame Letters Patent, his ſaid late Majeſty did alſo Grant unto the ſaid *Cecilius*, in Fee, all Iſlands *and* Iſlets, within the Limits aforeſaid, and all and ſingular the Iſlands and Iſlets which were, or ſhould be, in the Ocean, within 10 Leagues from the Eaſtern Shore of the ſaid Country towards the Eaſt; and his ſaid Majeſty did erect the ſaid Lands, ſo granted, into a Province, by the Name of *Maryland*, as by the ſame recited Letters Patent, had the Plaintiffs the ſame to produce, relation being thereunto had, would more plainly appear.

20 That the ſaid Letters Patent, or Grant, ſo made to the ſaid *Cecilius* as aforeſaid, was ſo deſcribed, and the Tracts, which were thereby granted, were ſo bounded, by the help of the ſaid Captain *Smith*'s ſaid Book and Hiſtory or Map of *Virginia*, and no other; and ſo all ſkilful Perſons do own, acknowledge and believe; and which manifeſtly appears for that the ſame Map has all and every the Names of the ſeveral Places which are contained and mentioned in the ſaid Letters Patent; and No other Map or Maps whatſoever
21 (*Engliſh*, or Foreign) which was extant in the ſaid Year 1632, and at the time of granting the ſaid Letters Patent (ſave only the ſaid *Smith*'s ſaid Map of *Virginia*) hath, or have, the Names and Deſcriptions of the ſeveral Places mentioned in the ſaid Letters Patent, agreeable to thoſe which are mentioned and uſed in the ſaid recited Letters Patent.

22 That, according to the expreſs Bounds of the ſaid recited Letters Patent, the Head, or moſt Northern part, of all the Lands, thereby granted to the ſaid *Cecilius*, was to extend only ſo far as *until it ſubjoined* to ſuch part of the Eſtuary of *Delaware* as lay under the 40th Degree of Northern Latitude; thereby *excluding* every part of the Lands which *did lie under* the ſaid 40th Degree, namely, ſuch Lands as did lie from the 39th Degree compleat, to the 40th Degree compleat; all which Space, from the 39th Degree
23 compleat, to the 40th Degree compleat, the Plaintiffs do expreſsly charge, was and is at leaſt 60 Geometrical Miles or Minutes, or 69 *Engliſh* Statute Miles, and did fully, clearly and plainly lie under the 40th Degree; and no part of what did lie under the 40th Degree was granted to the ſaid *Cecilius*, but only as far as *unto* ſuch part as did lie under the ſaid 40th Degree.

24 That it appears, by all and every the Land-Marks, Abuttals and other Deſcriptions contained in the ſaid recited Letters Patent, that no part of the Lands which lay under the 40th Degree was, or could poſſibly be, intended to be granted to the ſaid *Cecilius*, for that, the ſame Lands, ſo granted to him, were to extend no further Northwards than *to*
25 ſuch part of the *Eſtuary* of *Delaware* as lay under the 40th Degree; whereas no part of the Eſtuary of *Delaware*, or at moſt a very ſmall part (of 1 or 2 Miles, at the utmoſt) did lie within, or under, the ſaid 40th Degree of Northern Latitude.

That the part of the ſaid Peninſula, ſo granted to the ſaid *Cecilius*, is expreſsly mentioned to be *bounded, on the Eaſt part*, by the Main Ocean, which agrees exactly with the
26 other Deſcriptions in the ſaid recited Letters Patent, and makes the 39th Degree compleat to be the utmoſt Head or Northern Bound of the ſaid part of a Peninſula, ſo granted to the ſaid *Cecilius*; in regard that the Main Ocean does, ſo far, (and ſo far only) bound the ſaid Peninſula, on the Eaſt part; and had his ſaid late Majeſty intended to grant Lands any higher, or further Northward, the Main Ocean *alone* was *not a proper Deſcription*, or Abuttal, or Boundary, of ſuch Lands higher than the 39th Degree compleat;
27 and which is yet further ſtrengthened and confirmed, by the other Deſcriptions contained in the ſaid recited Letters Patent; in regard that the part of a *Peninſula* therein granted is to extend *Northwards* ſo far only as to that part of the Eſtuary of *Delaware*, on the North, as lay under the 40th Degree of Northern Latitude from the Equinoctial, where *New England* ended; and the Plaintiffs expreſsly Charge that the great Tract of Land which, at the time of making the ſaid recited Letters Patent, was generally called by the
28 *Engliſh*, *New England* (and which is now divided into the ſeveral Provinces or Colonies of *Weſt New Jerſey*, *Eaſt New Jerſey*, *New York*, *Rhode Iſland*, *Providence* Plantations, *Connecticut*, *Maſſachuſets* Bay, *New Hampſhire*, and Province of *Main*) did and doth lie and extend *Eaſtwards* of the ſaid Peninſula before mentioned, and Eaſtwards of the ſaid River of *Delaware*; and the Point of the ſame great Tract of Land, ſo called by the *Engliſh*, *New England*, at the Place neareſt unto the ſaid Peninſula, did, according to the
29 Knowledge, Obſervation and Learning of the time when the ſaid Letters Patent were granted, reach and extend, downwards or Southwards, quite to the Line of the 39th Degree compleat, or very nearly ſo, within 3 or 4 Miles thereof, at the utmoſt.

That the firſt *general* Deſcription in the ſaid recited Letters Patent of the ſaid firſt Tract of Land in the ſaid Peninſula ſo granted to the ſaid *Cecilius*, is a Grant of a part of a
30 *Peninſula*; whereas, had the Bounds and Limits of that Tract granted extended, or been meant to extend, to the 40th Degree compleat, no part of the ſaid Peninſula did extend ſo far Northwards, as to the 40th Degree compleat, for that the Plaintiffs expreſsly Charge that the Line of the 40th Degree *compleat*, did and doth lie far above, or Northwards of every Part whatever of the ſaid *Peninſula*, and above or Northwards of the *Iſthmus* which finiſhes and concludes the ſaid Peninſula, and *within the Main Country* and Continent it ſelf.

31 That, at the time of making the before recited Letters Patent to the ſaid *Cecilius*, one part of the ſaid Peninſula, which lay on the Eaſternſide of the ſaid Peninſula, towards the Sea and the Eſtuary of *Delaware* and the River of *Delaware*, and which ſaid part lay (according to the knowledge of thoſe times) more Northward than the ſaid 39th Degree compleat, and alſo, part of the Continent, at the Head or North part of the ſaid *Peninſula*, and which is now called the three lower Counties of *Newcaſtle*, *Kent*,
32 and *Suſſex*, was ſeated and inhabited by the *Swedes* and *Dutch*; *and his ſaid late Majeſty was not*, at the time of the ſaid recited Letters Patent to the ſaid *Cecilius*, *ſeized or poſſeſt thereof*, ſo as to grant the ſame; neither did his ſaid late Majeſty intend to grant the ſame; nor did the ſaid *Cecilius* petition, or aſk, his ſaid Majeſty for the ſame; but only for a Country in the ſaid Letters Patent afterwards deſcribed, which was *not then cultivated and planted*, though in certain Parts thereof Inhabited by certain *Barbarous* People, having no knowledge of Almighty God.

33 That, after the ſaid Letters Patent and Grant were made to the ſaid *Cecilius* as aforeſaid; he, or ſome of his Deſcendants, entered upon, and took poſſeſſion of, the ſame Premiſes, ſo granted, and has continued poſſeſt thereof.

And the ſaid *Swedes* and *Dutch*, ſucceſſively, poſſeſt and enjoyed, for many Years after the Date of the ſaid Letters Patent to the ſaid *Cecilius*, their ſaid ancient Settlement on
34 *Delaware*, above the 39th Degree compleat, and bounding Eaſtwards upon the Sea, and upon the Eſtuary of *Delaware*, and upon the River of *Delaware*.

But, inaſmuch as the ſaid *Swediſh* and *Dutch* Settlement, did not extend, Weſtwards, quite acroſs the whole width of the ſaid *Peninſula* to the ſaid Bay of *Cheſopeak*, and his ſaid late Majeſty King *Charles* the Firſt, or his Succeſſor, not having made any Grant of the ſaid Country on the back of, or more Northwards than, the Tracts granted to the ſaid *Ce-*
35 *cilius* as aforeſaid, for near 50 Years after the Date of the ſaid recited Letters Patent to the ſaid *Cecilius*, unto any Perſon or Perſons, who poſſeſſed and ſeated the ſame; and the Lands (excluſive of thoſe which were poſſeſt by the *Swedes* and *Dutch* as aforeſaid) which lay Northwards of the Tracts granted by his ſaid late Majeſty to the ſaid *Cecilius* as aforeſaid, being poſſeſt by the *Indian* Natives in thoſe Parts, the Plaintiffs expreſsly Charge, that the ſaid *Cecilius*, Baron of *Baltimore*, and his Heirs and Diſcendants did, in Deceit and
36 Diſheriſon of his Majeſty, ſet down upon, and take poſſeſſion of, ſome Lands, on the Weſtern ſide of the ſaid *Peninſula*, above, and more Northward than, the 39th Degree of

Northern Latitude compleat, and alſo above, and more Northward than, the Bounds and Limits expreſsly contained in the ſaid recited Letters Patent; and for which ſeating down, or Poſſeſſion, the Plaintiffs do expreſsly Charge that the ſaid *Cecilius*, or any of his Heirs, or Deſcendants, had not the leaſt ſhadow or pretence of legal Title, until a Title there-
37 to was firſt made to a Deſcendant of the ſaid *Cecilius*, by the Plaintiffs in manner as herein after mentioned.

That the *Dutch* held the ſaid Lands, now called the three Lower Counties (which lie on the Weſtern-ſide of the River of *Delaware*) *as appertaining* and belonging to, and *alway going along with*, a larger or *greater Settlement*, upon a very large Tract of Land, part of what is generally called *New-England*, and particularly, on thoſe Parts now called
38 *Weſt-New-Jerſey*, and *Eaſt-New-Jerſey*, and *New-York*, on the Eaſtern-ſide of *Delaware*, and that it was very convenient, and almoſt neceſſary, to thoſe who enjoyed the *greater* Settlement, to have likewiſe the Lands now called the three Lower Counties, in reſpect that, the ſaid River *Delaware* runs up Northwards, into the Back or Heart of the Main Continent, and is navigable for a great many Scores of Miles from the Sea, and is a dangerous and difficult Paſſage, more eſpecially in the Winter when the Ice comes down
39 the River; and that the Ports and Havens, in paſſing up the ſaid River *Delaware*, as well for Conveniency, as for Safety in times of Danger, do all lie on the ſaid *Weſtern-ſide* of the ſaid River *Delaware*, which River is the *only* Key and Paſſage up to the Inland Country thereabouts;

But, in or about the Year 1664, his late Majeſty King *Charles* the Second, took from the ſaid *Dutch*, the ſaid *great Settlement* and Poſſeſſion of the ſaid *Dutch*, at *New-York* and
40 *New-Jerſey*, on the Eaſtern-ſide of the ſaid River of *Delaware*, together with the ſaid Lands on the Weſtern-ſide of the ſaid River of *Delaware*, and all other Lands appertaining to the ſaid great Settlement; and his ſaid late Majeſty King *Charles* the Second, being then (for the firſt time) ſeized in Right of his Crown, and poſſeſt of the ſaid ſeveral Settlements and ancient Poſſeſſions of the *Swedes* and *Dutch*, did, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter* on or about the 12th Day of
41 *March*, in the 16th Year of his Reign, and in the Year of Our Lord 1664, for divers good Cauſes and Conſiderations thereunto moving, of his eſpecial Grace, certain Knowledge and mere Motion, give and grant unto his deareſt Brother *James*, then Duke of *York*, his Heirs and Aſſigns, all that part of the Main Land of *New-England*, beginning
42 at a certain Place called or known by the Name of *St. Croix*, next adjoining to *New-Scotland* in *America*, and, from thence, extending, along the Sea Coaſt, unto a certain Place called *Pemaquine* or *Pemaquind*, and ſo, up the River thereof, to the furtheſt Head of the ſame, as it tendeth Northwards, and extending, from thence, to the River of *Kinebequine*, and ſo, upwards, by the ſhorteſt Courſe, to the River *Camada*, Northward; and alſo all that Iſland or Iſlands commonly called by the ſeveral Name or Names of *Matto-*
43 *wacks* or *Long Iſland*, ſituate, lying and being towards the Weſt of Cape *Codd* and the *Narrohiganſetts*, abutting upon the Main Land between the two Rivers there, called or known by the ſeveral Names of *Connecticut* and *Hudſon*'s River, together alſo with the ſaid River, called *Hudſon*'s River, and all the Lands, from the Weſt-ſide of *Connecticut* River, to the Eaſt-ſide of *Delaware* Bay, and alſo all thoſe ſeveral Iſlands, called or known by the Names of *Martin* Vineyards, and *Nantukes* otherwiſe *Nantuckett*, together with all the
44 *Lands*, Iſlands, Soils, Rivers, Harbours, Mines, Minerals, Quarries, *Woods*, Marſhes, Waters, Lakes, Fiſhings, Hawking, Hunting and Fowling, and all other *Royalties*, *Profits*, *Commodities*, and *Hereditaments*, to the ſaid ſeveral Iſlands, Lands, and Premiſſes, *belonging and appertaining*, with their and every of their Appurtenances, and all his ſaid late Majeſty King *Charles* the Second's Right, Title, Intereſt, Benefit, Advantage, Claim and Demand, of, in or to the ſaid Lands and Premiſſes, or any Part or Parcel thereof, and
45 the Reverſion and Reverſions, Remainder and Remainders, together with the Yearly and other the Rents, Revenues, and Profits, of all and ſingular the ſaid Premiſſes, and of every Part and Parcel thereof, to hold unto the ſaid *James*, Duke of *York*, his Heirs and Aſſigns for ever, to be held as of the Manor of *Eaſt-Greenwich*, in the County of *Kent*; and his ſaid late Majeſty, in and by the ſaid laſt recited Letters Patent, Gave and Granted unto the ſaid *James* Duke of *York*, in Fee, divers *Powers of Government*, over
46 the ſaid Country and Territory thereby granted; as in and by the ſaid laſt recited Letters Patent under the Great Seal of *England*, or an Exemplification thereof, or the Inrollment thereof, remaining of Record in this Honourable Court, relation being thereunto had, may more fully and at large appear.

That, by Virtue of, and under the ſaid laſt recited Grant and Letters Patent, ſo made to the ſaid Duke of *York*, he the ſaid Duke of *York*, by his Governors, Deputy-Gover-
47 nors, and other Officers became, and was, really and actually, and alſo lawfully and rightfully, ſeized and poſſeſſed of and intitled to the ſaid *great Settlement* of the *Dutch*, on that Tract ſince divided into and called Weſt and Eaſt *New Jerſey* and *New York*, and *alſo* of the ſaid *ſmall and ancient Settlement* of the *Swedes* and *Dutch* in thoſe Parts, now called the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, upon *Delaware*, *as belonging and appertaining to the ſaid great Settlement*. And the ſaid *James* Duke of
48 *York*, by his Deputy-Governors, or other Officers, did and exerciſed *all ſorts of Acts of Ownerſhip*, *Proprietorſhip* and Government, whatſoever, within the ſaid Tract now called the three lower Counties, for many Years together.

And the ſaid *ſmall Settlement*, when in the Poſſeſſion of the *Dutch*, and afterwards, when in the Poſſeſſion of the ſaid Duke of *York*, was *always a Dependant upon and belonging and appertaining to the* ſaid great Settlement, till Granted away by the ſaid Duke of *York*.

49 That after his ſaid late Majeſty, King *Charles* the Second, had made ſuch Grant as aforeſaid, to the ſaid *James* Duke of *York*, a certain Treaty was concluded at *Breda*, in, or about the Year 1667, between his ſaid late Majeſty, King *Charles* the Second and the States General, whereby the ſaid States General, ceded and yielded, to his ſaid late Majeſty, all Places whereof his ſaid late Majeſty had been in Poſſeſſion on the 10th day of *May*, in the ſaid Year 1667; as by the ſaid Treaty, had the Planitiffs the ſame to produce, relation being thereunto had, might and would more fullly appear.

50 That in, or about the Year 1672, War was declared, between *England* and *Holland*, and thereafter, to wit, in, or about the Month of *July* 1673, the *Dutch entred into*, *and upon their ſaid former great Settlement*, upon the Lands now called Weſt and Eaſt *New-Jerſey* and *New-York*, and *likewiſe into and upon their ſaid former ſmaller Settlement*, upon
51 the Lands now called the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*.

But afterwards, to wit, in, or about the Month of *February* 1673, a Treaty of Peace was concluded, between *England* and *Holland*, whereby all Countries which had been taken by each from the other, ſince the ſaid laſt mentioned War which broke out in 1672, were agreed to be reſtored by each of the contracting Parties to the other, from whom the
52 ſame had been taken, as by the ſaid laſt mentioned Treaty, had the Plaintiffs the ſame to produce, relation being thereunto had, might and would more fully appear.

That in a very ſhort time after the concluding the ſaid laſt mentioned Treaty of *February* 1673, his ſaid late Majeſty, King *Charles* the Second, and the ſaid *James* Duke of *York*, ſent over Colonel *Edmund Andros*, afterwards Sir *Edmund Andros*, Knight, or ſome other Perſon, or Perſons, with Authority to receive from the *Dutch* their ſaid Settlements,
53 herein before mentioned, and the Government thereof, and to continue in the Command thereof, under the ſaid *James* Duke of *York*, as by ſuch Commiſſions and Authorities, had the Plaintiffs the ſame to produce, relation being thereunto had, would and might more fully appear.

That, immediately after the giving ſuch Commiſſions and Authority to the ſaid Colonel *Andros*, he went over to thoſe Parts, and took Poſſeſſion of *both* the ſaid great Settle-
54 ment, and ſmall, for and in behalf of the ſaid *James* Duke of *York*, and continued in Poſſeſſion thereof, and under the Authority, and in the behalf of the ſaid *James* Duke of *York*, did, for many Years together, Exerciſe all ſorts of Acts of Ownerſhip, Propriety, and Government, whatſoever, throughout the ſaid great and ſmall Settlements herein before mentioned, and particularly throughout the ſaid ſmall Settlement, upon the ſaid Tracts now called the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*. As by the ſe-
55 veral Grants, Commiſſions, and other Acts and Inſtruments, made and executed by the ſaid Colonel *Andros*, relation being thereunto had, may and will moſt manifeſtly and notoriouſly appear.

That in order to make to the ſaid Duke of *York* a clear Title to the ſaid Countries, which had been before granted to him in 1664, as aforeſaid, and to prevent any Queſtion
56 touching the Validity of the ſame in reſpect of the Entry made thereon, or on ſome Part thereof, by the *Dutch* in 1673, his ſaid late Majeſty, King *Charles* the Second, by his Letters Patent under the Great Seal of *England*, bearing Date at *Weſtminſter*, on, or about the 29th Day of *June*, which was in the 26th Year of his Reign, and in the Year of our Lord 1674, did give and grant, unto the ſaid *James* Duke of *York*, his Heirs, and Aſſigns, the ſame Territories which were granted by the ſaid former Letters Patent, and in the ſame Words.

57 And his ſaid late Majeſty King *Charles* the Second, did, in and by the ſaid laſt Letters Patent, give and grant unto the ſaid *James* Duke of *York*, in Fee, divers Powers of Government over the ſaid Country and Territory thereby granted; as by the ſaid laſt Letters Patent, under the Great Seal of *England*, or an Exemplification thereof, or the Enrollment of the ſame, remaining as of Record in this Honourable Court, relation being thereunto had, doth and may appear.

58 That the Plaintiffs late Father, on or about the 1ſt Day of *June*, in the Year of our Lord 1680, petitioned his ſaid late Majeſty King *Charles* the Second, in Conſideration of Debts due to him, or his Father from the Crown, to grant him Letters Patent, for a Tract of Land in *America*, lying North of *Maryland*, on the Eaſt bounded with *Delaware* River, on the Weſt limited as *Maryland*, and Northward to extend as far as Plantable.

59 That on or about the 14th of *June* 1680, the Plaintiffs ſaid late Father was called in, by the Lords of the Committee of his ſaid late Majeſty's Moſt Honourable Privy Council for the Affairs of Trade and the Plantations, to whoſe Conſideration the ſaid Petition had been referred, and being aſked what extent of Land he would be contented with Northerly? He declared himſelf ſatisfied with three Degrees, to the Northward.

60 That the Agents for the ſaid then Lord *Baltimore*, had Copies of the ſaid Petition, and were heard upon any Objections they had to offer againſt the paſſing ſuch a Grant as was prayed by the ſaid Petition, and in relation to the Boundaries of *Maryland*; as by ſeveral Orders and Minutes in the Regiſter Books of his Majeſty's Privy Council, bearing Date reſpectively the 14th of *June*, in the Year of our Lord 1680, the 25th of the ſaid Month, in the ſaid Year, and the 16th of *December*, in the ſaid Year of our Lord 1680, relation being thereunto had, may more fully and at large appear.

61 That, purſuant to the Advice and Reports of the Lords of his ſaid late Majeſty's Moſt Honourable Privy Council, by Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter*, on or about the 4th Day of *March*, which was in the 33d Year of the Reign of his late Majeſty King *Charles* the Second, and in the Year of our Lord 1680,
62 his ſaid late Majeſty did, of his ſaid Majeſty's ſpecial Grace, certain Knowledge, and meer Motion, give and grant, unto *William Penn* Eſq; the Plantiffs ſaid late Father, his Heirs and Aſſigns, *all that Tract*, or Part of Land in *America*, with all the Iſlands therein contained, as the ſame was bounded, on the Eaſt, by *Delaware* River, from twelve Miles diſtance, Northwards of *Newcaſtle* Town, unto the three and fortieth Degree of Northern Latitude, if the ſaid River did extend ſo far Northwards; but if the ſaid River ſhould
63 not extend ſo far Northward, Then, by the ſaid River ſo far as it did extend, and, from the head of the ſaid River, the Eaſtern Bounds were to be determined by a Meridian Line, to be drawn from the head of the ſaid River unto the three and fortieth Degree; the ſaid Lands to extend, Weſtwards, five Degrees in Longitude, to be computed from the ſaid Eaſtern Bounds; and the ſaid Lands to be bounded, on the North, by the beginning of the forty-third Degree of Northern Latitude, and, on the South, by a Circle, drawn at
64 twelve Miles Diſtance from *Newcaſtle*, Northwards and Weſtwards, unto the beginning of the fortieth Degree of Northern Latitude; and, then, by a ſtreight Line, Weſtwards, to the Limit of Longitude thereabove mentioned; and alſo the free and undiſturbed Uſe and Continuance in, and Paſſage into and out of, all and ſingular Ports, Harbours, Bays, Waters, Rivers, Iſles, and Inletts belonging unto, or leading to and from, the Country or Iſlands aforeſaid; and all the Soil, Lands, Fields, Woods, Underwoods, Moun-
65 tains, Hills, Fens, Iſles, Lakes, Rivers, Waters, Rivulets, Bays and Inletts, ſituate or being within, or belonging unto, the Limits and Bounds aforeſaid; with all and ſingular the Appurtenances, and divers Powers of Government: To hold unto the ſaid *William Penn*, his Heirs, and Aſſigns for ever.

And, by the ſame Letters Patent, the ſaid Country was erected into a Province, and called *Penſilvania*, as in and by the ſaid laſt recited Letters Patent, under the Great Seal of *England*, relation being thereunto had, may more fully appear.

66 That although the ſaid Province of *Penſilvania* did lie entirely on the *Weſt* ſide of *Delaware* River, yet, in reſpect of the ſaid Lands called the three Lower Counties, and in reſpect of other Lands alſo, which were enjoyed by the ſaid Duke of *York*, *as belonging* to the ſaid great Settlement on the Eaſt ſide of the ſaid River, before the ſaid Letters Pa-
67 tent to the Plaintiffs ſaid Father, paſſed the Great Seal, the Lords of his late Majeſty's Privy Council, thought the Conſent of the ſaid Duke of *York neceſſary*; and, accordingly, the ſaid Duke of *York*'s Aſſent to the ſaid Grant thereof was had and given, to the Right Honourable the Lords of the Committee of Plantations, or before a Commitee of the Privy Council of his ſaid late Majeſty King *Charles* the Second.

And, not only ſo, but, by Indenture, under the Hand and Seal of the ſaid *James* Duke of *York*, bearing Date on or about the 21ſt Day of *Auguſt*, which was in the
68 Year of our Lord 1682, and made *or* mentioned to be made, between the ſaid *James* Duke of *York* of the one Part, and the ſaid *William Penn* the Plaintiffs ſaid late Father of the other Part, reciting that the ſaid Duke of *York* had in manner aforeſaid, ſignified his Aſſent to the making of the ſaid Grant of *Penſilvania* to the Plaintiffs ſaid late Father, before the ſame had paſſed the Great Seal, and that the ſaid Duke was willing and pleaſed to confirm, and make any further Aſſurance of, the ſaid Tract of Land
69 and Premiſſes, unto the ſaid *William Penn*, and his Heirs, the ſaid Duke, out of a ſpecial Regard to the Memory, and many faithful and eminent Services theretofore performed by the ſaid Sir *William Penn*, to his ſaid Majeſty, and to the ſaid Duke, and for the better encouraging the ſaid *William Penn*, to proceed in the Cultivating and Improving of the ſaid Tract of Ground and Iſlands therein, and thereunto belonging, and reducing the Savage and Barbarous Natives thereof to Civility, and for the Good-will which the ſaid Duke
70 had and bore to the ſaid *William Penn*, and for other good Cauſes and Conſiderations, the ſaid Duke did, in and by the ſaid laſt mentioned Indenture, remiſe, releaſe, and for ever quit Claim unto the ſaid *William Penn*, his Heirs, and Aſſigns, all the Eſtate, Right, Title, Intereſt, Rents, Services, Duties, Payments, Property, Claim and Demand, whatſoever, of the ſaid Duke, of into or out of the ſame, to hold unto the ſaid *William Penn*, his Heirs, and Aſſigns for ever, as by the ſaid recited Indenture, relation being there-
71 unto had, may more fully appear.

That, as the ſaid Province of *Penſilvania*, lies North of the ſaid Province of *Maryland*, ſo, by the ſaid laſt recited Letters Patent for *Penſilvania*, the *General* Bounds of the ſaid Province of *Penſilvania*, on the South Part, are expreſsly ſaid to be the *beginning* of the fortieth Degree of Northern Latitude (with an Exception, at one Corner, of the
72 Circle at twelve Miles Diſtance from *Newcaſtle*) ſo that, as by the ſaid firſt recited Letters Patent the Northern Bounds of *Maryland* were to extend Northwards as far as *to* the fortieth Degree, this ſecond Grant, containing the Province of *Penſilvania*, is, by his ſaid Majeſty's ſaid laſt recited Letters Patent, made to commence from the *beginning* of the ſaid fortieth Degree, and to run, Northwards, three Degrees (purſuant to the ſaid Declaration of the Plantiffs late Father) up to the *beginning* of the forty-third Degree.

73 That, very ſoon after the ſaid Grant was made by the ſaid late King *Charles* the Second, and by the ſaid Duke of *York*, of the ſaid Province of *Penſilvania*, unto the Plaintiffs ſaid late Father, as aforeſaid, the ſaid *James* Duke of *York*, by his Indenture of *Feoffment*, under his Hand and Seal (afterwards duly and moſt ſolemnly executed with *Livery and Sei-*
74 *ſin*) bearing Date on or about the 24th Day of *Auguſt*, in the Year of our Lord 1682, and made between the ſaid *James* Duke of *York* of the one Part, and the ſaid *William Penn* of the other Part, did, out of a ſpecial regard to the Memory, and many faithful and eminent Services thentofore performed by the Father of the ſaid *William Penn* to the

ſaid

said King *Charles* the Second, and to the said Duke of *York*, and for other good Cauſes and Conſiderations therein mentioned, Bargain, Sell, Enfeoff and Confirm, to the ſaid *Wil-*
75 *liam Penn*, his Heirs, and Aſſigns, for ever, *all that the Town of* Newcaſtle, otherwiſe called *Delaware*, and the Tract of Land lying within the Compaſs or Circle of twelve Miles about the ſame, ſituate, lying, and being upon the River *Delaware* in *America*, and all Iſlands in the ſaid River *Delaware*, and the ſaid River, and Soil thereof, lying North of the Southermoſt part of the ſaid Circle of twelve Miles about the ſaid Town, together with all Rents, Services, Royalties, Franchiſes, Duties, Juriſdictions, Liberties,
76 and Privileges thereunto belonging, and all his Eſtate, Right, Title, Intereſt, Powers, Property, Claim and Demand, whatſoever, therein and thereto, to hold unto the ſaid *William Penn*, his Heirs, and Aſſigns for ever.

And the ſaid *James* Duke of *York*, by his *other* Indenture of *Feoffment*, under his Hand and Seal (afterwards duly and moſt ſolemnly executed with *Livery and Seiſin*) alſo bearing Date the ſame 24th day of *Auguſt* 1682, and made between the ſaid *James* Duke of *York* of the one Part, and the ſaid *William Penn* of the other Part, for the like Conſiderations
77 as were mentioned in the ſaid before recited Indenture of Feoffment, did Bargain, Sell, Enfeoff and Confirm, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever, *all that Tract of Land* upon *Delaware* River and Bay, beginning 12 Miles South from the Town of *Newcaſtle*, otherwiſe called *Delaware*, and extending, South, to the *Whore-Kills*, otherwiſe called Cape *Hinlopen*, together with free and undiſturbed Uſe and Paſſage into and out of all Harbours, Bays, Waters, Rivers, Iſles and Inletts, belonging or leading
78 to the ſame, together with the Soil, Fields, Woods, Underwoods, Mountains, Hills, Fens, Iſles, Lakes, Rivers, Rivulets, Bays and Inletts, ſituate in, or belonging unto, the Limits and Bounds therein before mentioned, together with all ſorts of Minerals, and all the Eſtate, Intereſt, Royalties, Franchiſes, Powers, Privileges, and Immunities, whatſoever, of the ſaid Duke of *York*, therein or thereto: To hold unto the ſaid *William Penn*, his Heirs and Aſſigns for ever.

And the ſaid Duke of *York* did, in and by each of the ſaid ſeveral and reſpective Indentures of Feoffment, Covenant, for himſelf, his Heirs and Aſſigns, to and with the ſaid
79 *William Penn*, his Heirs and Aſſigns, to make, or cauſe, or procure to be made, all ſuch *further* Acts, Conveyances, and *Aſſurances* of the Premiſes therein reſpectively conveyed to the ſaid *William Penn* and his Heirs, as by the Council of the ſaid *William Penn*, his Heirs or Aſſigns ſhould be deviſed, adviſed or required.

And the ſaid Duke of *York* did, further, in and by each of the ſame reſpective Indentures of Feoffment, make, conſtitute and appoint two Perſons, namely, *John Moll* Eſq; and
80 *Ephraim Harman* Gent. jointly, and either of them, ſeverally, his Attorneys, to enter into the Premiſes by the ſame reſpective Indentures of Feoffment conveyed, and take Poſſeſſion and Seiſin thereof, and the ſame to deliver to, and leave in, the Poſſeſſion of the ſaid *William Penn*, his Heirs and Attorneys, as in and by the ſaid ſeveral and reſpective Indentures of Feoffment, relation being unto them ſeverally and reſpectively had, may more fully appear.

81 That on or about the 28th Day of *October* 1682, the Plaintiffs ſaid late Father, the ſaid *William Penn*, either in his proper Perſon, or by his Attorney, did demand, and the ſaid *John Moll*, one of the ſaid Duke's Attorneys, did, *with great form and ſolemnity*, deliver, and leave the ſaid *William Penn* in, the quiet and peaceable Poſſeſſion and Seiſin of the Premiſes contained in *both* the ſaid reſpective Indentures of Feoffment, purſuant to the Power and Authority given by the ſame reſpective Indentures of Feoffment, by deli-
82 very to the ſaid *William Penn* of the Fort at *Newcaſtle*, and of Turf and Twig, and Water and Soil of the River *Delaware*; and, not only ſo, but the few Tenants, then being thereon, did attourn, and ſubmit and promiſe to obey the ſaid *William Penn*, and to live quietly under his Government.

And, moreover, in a very few days after ſuch Poſſeſſion and Seiſin delivered, to wit, ſome time in the Month of *November* 1682, the ſaid Duke of *York*'s Commander in Chief
83 and Council, eſtabliſhed at *New York*, by a Proclamation or Declaration, reciting the ſaid Grants made by the ſaid Duke of *York*, by the ſaid Feoffments to the ſaid *William Penn*, and ſetting forth, that the ſaid Governor and Council were fully ſatisfied of the Right of the ſaid *William Penn*, they, therefore, made a Declaration of the ſame, to prevent any doubt or trouble, and to give the Juſtices of Peace, Magiſtrates and other Officers within thoſe Tracts, thanks for their good Services done in their ſeveral Offices and Stations
84 during the time they had remained under his Royal Highneſs his Government, (meaning the Government of the ſaid *James* Duke of *York*.) And further declaring, that the ſaid Governor and Council expected no further Account, than that they, the ſaid Juſtices of the Peace, Magiſtrates and other Officers, ſhould readily ſubmit and yield all due Obedience and Conformity to the Powers granted to the ſaid *William Penn*.

85 Which ſaid Proclamation or Declaration was addreſſed or directed to the ſeveral Juſtices of the Peace, Magiſtrates and other Officers at *Newcaſtle*, *St. Jones Deale*, alias *Whore-Kill*, at *Delaware*, or within any of the Bounds and Limits mentioned in the ſaid recited Indentures of Feoffment to the ſaid *William Penn*; as by the ſaid Proclamation or Declaration, or an authentick Copy thereof, relation being thereunto had, may more plainly and fully appear.

And the Plaintiffs expreſsly Charge that the Lands, comprized and included within the ſaid two reſpective Indentures of Feoffment, are thoſe Lands which are now called by the
86 Name of the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*.

And that the ſaid *William Penn* entered into the peaceable Poſſeſſion of the ſaid Province of *Penſilvania* in the Month of *June* 1681.

And into the peaceable Poſſeſſion of all the three lower Counties in the Month of *October*; or at furtheſt in the Month of *November* in the Year 1682.

87 And that the ſaid *William Penn*, and thoſe claiming under him, now are, and from the time of ſuch the reſpective Entries of the ſaid *William Penn* as aforeſaid, have conſtantly and continually, and without any the leaſt Intermiſſion, been in the Poſſeſſion of the ſame, reſpectively, from thoſe reſpective times, unto this Hour.

And that the ſaid *William Penn*, at his own very great Expence, and without one Shilling Charge to, or Aſſiſtance from, either the Crown or the Publick, did People and ſettle the ſaid Province of *Penſilvania*, and alſo the ſaid three lower Counties.

88 And that the ſame do, at this time, together, make by far the moſt flouriſhing and populous Province and Colony in *America*, for the Age of the ſame.

And that the Number of Inhabitants, now within the ſaid three lower Counties only, (excluſive of a far greater Number of Souls within the ſaid Province of *Penſilvania*, properly ſo called,) is at leaſt 40,000 Souls.

That the ſaid Duke of *York* having, by each of his ſaid Indentures of Feoffment of the 24th of *Auguſt* 1682, coveranted with the Plaintiffs Father, to make and procure further Af-
89 ſurance of the Premiſes contained within the ſaid recited Indentures of Feoffment as aforeſaid, he the ſaid Duke of *York* did, in purſuance and part of Performance of his ſaid Covenants, very ſhortly after the Date of the ſaid Feoffments make his Application to the ſaid King *Charles* the Second, for a *more particular* and expreſs Grant, under the Great Seal of *England*, of the ſaid three lower Counties, or of the Lands contained in the ſaid Feoffments and ſince called the three lower Counties, and did procure and obtain the ſame.

90 And his ſaid late Majeſty King *Charles* the Second, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter*, on or about the 22d Day of *March*, which was in the 35th Year of his Reign, and in the ſaid Year of our Lord 1682 (*which was not quite ſeven Calendar Months* after the Date of the ſaid Duke's ſaid Feoffments) did
91 give and grant unto the ſaid *James* Duke of *York*, his Heirs and Aſſigns, *all* that the Town of *Newcaſtle*, otherwiſe called *Delaware*, and Fort therein, or thereunto belonging, ſituate, lying and being between *Maryland* and *New Jerſey* in *America*. And all that Tract of Land lying within the Compaſs or Circle of 12 Miles about the ſaid Town, ſituate, lying and being upon the River of *Delaware*, and all Iſlands in the ſaid River of *Delaware*, and the ſaid River, and Soil thereof, lying North of the Southermoſt part of the
92 ſaid Circle of 12 Miles about the ſaid Town. And all that Tract of Land, upon *Delaware* River and Bay, beginning 12 Miles South from the ſaid Town of *Newcaſtle*, otherwiſe called *Delaware*, and extending, South, to Cape *Lopin*, together with all the Lands, Iſlands, Soil, Rivers, Harbours, Mines, Minerals, Quarries, Woods, Marſhes, Waters, Lakes, Fiſhings, Hawkings, Huntings and Fowlings, and all other Royalties, Privileges, Profits, Commodities, and Hereditameuts to the ſaid Town, Fort, Tracts of
93 Lands, Iſlands, and Premiſes, or to any or either of them, belonging or appertaining, with their and every of their Appurtenances, ſituate, lying and being in *America*. And all his ſaid late Majeſty's Eſtate, Right, Title, Intereſt, Benefit, Advantage, Claim and Demand, whatſoever, of, in or to the ſaid Town, Fort, Lands, and Premiſes, or any Part or Parcel thereof, and the Reverſion and Reverſions, Remainder and Remainders thereof, together with the Yearly and other Rents, Revenues and Profits of the Premiſes, and of
94 every Part and Parcel thereof, to hold unto the ſaid *James* Duke of *York*, his Heirs and Aſſigns for ever, to be held as of the Manor of *Eaſt Greenwich* in the County of *Kent*, with full and abſolute Powers and Authorities therein contained, to the ſaid Duke of *York* and his Heirs, Deputies, Agents, Commiſſioners and Aſſigns, Power and Authority of Government and Command, over all ſuch Perſons as ſhould Adventure into any the Places aforeſaid, or that ſhould at any time thereafter inhabit within the ſame.

And, immediately after the ſaid laſt recited Letters Patent had paſſed the Great Seal, the ſaid Duke of *York*, *who was no other than a Truſtee for the ſaid* William Penn *therein*,
95 and had obtained them in purſuance of his Covenant for further Aſſurance, did deliver over the ſame Original laſt recited Letters Patent under the Great Seal to the Plaintiffs Father, and the ſame is now in the Cuſtody and Poſſeſſion of the Plaintiffs, ready to be produced to this Honourable Court, as by the ſaid laſt recited Letters Patent, under the Great Seal of *England*, ſo in the Plaintiffs Cuſtody, relation being thereunto had, may more fully appear.

96 That after the ſaid laſt recited Letters Patent had paſſed the Great Seal, and had been delivered over to the Plaintiffs Father as aforeſaid, the ſaid Duke of *York*, in further purſuance of his ſaid Covenants with the Plaintiffs ſaid Father did ſollicite from the ſaid King *Charles* the Second, a yet further, and more beneficial, Grant of the Lands now called the three lower Counties, and of the Appurtenances thereto; and ſuch further Grant was preparing, in order to paſs the Great Seal, but was ſtopt, for ſome time, upon a Petition pre-
97 ſented to his ſaid late Majeſty King *Charles* the Second in Council by *Richard Burk*, calling himſelf Servant to the then Lord *Baltimore*, (which ſaid then Lord *Baltimore* the Plaintiffs Charge was either Son, or Grandſon, of, and Heir at Law to the ſaid *Cecilius*.)

And ſuch laſt mentioned Petition, in behalf of the ſaid then Lord *Baltimore*, having been preſented to his ſaid Majeſty, was referred, by his ſaid Majeſty's Order in Council bear-
98 ing Date on or about the Day of *May* 1683, to the Conſideration of the then Committee of Trade and Foreign Plantations (which Committee the Plaintiffs Charge did, then, conſiſt of Lords of his ſaid Majeſty's Moſt Honourable Privy Council.)

And, before the ſaid Committee, the ſaid *Richard Burk*, and the ſaid then Lord *Baltimore* himſelf, and their Council Learned in the Law, and alſo the Plantiffs Father, and his Council Learned in the Law, *were many and divers times heard, for near two Years and an half together*.

99 And a very long Suit and Trial were had thereon, between the Plaintiffs ſaid Father, and the ſaid then Lord *Baltimore*, touching the Right and Title to the ſaid Land and Soil of the ſaid three lower Counties, as may appear by the Regiſter Books and Proceedings of the ſaid Committee of Council, or Committee of Trade and Foreign Plantations.

And, in the Proſecution of the ſaid Suit, it is, from time to time, continually taken notice, and expreſly mentioned, in the Minutes or ſeveral Orders made by the ſaid Com-
100 mittee thereon, that the Diſpute and Difference was a Diſpute between the ſaid then Lord *Baltimore* and the Plaintiffs ſaid Father, although the Plaintiffs ſaid Father did, ſome, times, make uſe of the ſaid Duke of *York*'s Name therein, as holding under the Grants, and Covenants for further Aſſurance, of the ſaid Duke of *York*, and altho' the ſaid Duke himſelf, did, by his Council and other Agents, ſometimes, aſſiſt and interpoſe in the ſaid Suit.

And which the Plaintiffs humbly rely on as a *further* moſt expreſs, and manifeſt, Declaration, on the part of the ſaid Duke, that the ſaid Grant of the ſaid three lower Counties,
101 which he had obtained from the Crown after his ſaid Feoffment to the Plaintiffs ſaid Father, and alſo the further Grant which he was then ſoliciting to obtain, were in Truſt for, and for the Benefit of, the Plaintiffs ſaid Father, and not for the Benefit or Advantage of the ſaid Duke of *York*.

And the Plaintiffs do expreſsly Charge that ſeveral of the Minutes, Orders, and Reports, made by the ſaid Committee of Council, upon, and during the Continuance, of the
102 ſaid Diſpute, were of the ſeveral and reſpective Dates for that purpoſe herein after mentioned and ſet forth, and ſo the ſame now appear upon the Regiſter Books of the ſaid Committee for Trade and Foreign Plantations, that is to ſay, the 17th and 27th of *April*, the 30th of *May*, the 12th of *June*, and the 12th of *February*, 1683, the 2d, 16th, and 23d
103 of *July*, the 30th of *September*, the 9th of *December*, and the 17th of *March* 1684, the 18th and 26th of *Auguſt*, the 2d of *September*, the 8th, 17th, and 31ſt of *October*, and the 7th of *November* 1685.

And the final Order of Council, made thereon, upon the 13th Day of *November* 1685, was in the following Words, that is to ſay,

104 At the Court at *Whitehall*, the 13th Day of *November* 1685, preſent the King's moſt Excellent Majeſty, his Royal Highneſs Prince *George* of *Denmark*, Lord Archbiſhop of *Canterbury*, Lord Chancellor, Lord Treaſurer, Lord Privy Seal, Duke of *Ormond*, Duke of *Beaufort*, Duke of *Queenſberry*, Lord Chamberlain, Earl of *Huntingdon*, Earl of *Bridgewater*, Earl of *Peterborough*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Berkeley*, Earl of *Nottingham*, Earl of *Plymouth*, Earl of *Murray*, Earl of *Middleton*, Lord Vif-
105 count *Fauconberge*, Lord Viſcount *Preſton*, Lord Viſcount *Melfort*, Lord Biſhop of *London*, Lord *Dartmouth*, Lord *Godolphin*, Mr. Chancellor of the *Exchequer*.—The following Report, from the Right Honourable the Lords of the Committee for Trade and Foreign Plantations, being this Day read at the Board.——The Lords of the Committee for Trade and Plantations having purſuant to his late Majeſty's Order in Council of the 31ſt of *May* 1683, examined the Matters in Difference, between the Lord *Baltimore*, and *Wil-*
106 *liam Penn* Eſq; in behalf of his preſent Majeſty, concerning a Tract of Land in *America*, commonly called *Delaware*, *Their Lordſhips find that the Land intended to be granted by the Lord* Baltimore's *Patent was only Land uncultivated and inhabited by Savages; and that this Tract of Land, now in Diſpute, was inhabited and planted by Chriſtians at and before the Date of the Lord* Baltimore's *Patent, as it hath been ever ſince, to this time, and continued as a Diſtinct Colony from that of* Maryland, ſo that their Lordſhips humbly Of-
107 fer their Opinion that, for avoiding further Differences, the Tract of Land, lying between the River and the Eaſtern Sea on the one ſide, and *Cheſopeak* Bay on the other, be divided, into equal Parts, by a Line, from the Latitude of Cape *Hinlopen*, *to* the 40th Degree of Northern Latitude, and that one half thereof, lying towards the Bay of *Delaware*, and the Eaſtern Sea, be adjudged to belong to his Majeſty, and that the other half remain to the Lord *Baltimore*, as comprized within his Charter.—Council Chamber, 7th *No-*
108 *vember* 1685. His Majeſty, well approving of the ſaid Report, it was thereupon Ordered, by his Majeſty in Council, that the ſaid Lands be forthwith divided, accordingly.—Whereof the ſaid Lord *Baltimore*, and *William Penn* Eſq; together with their reſpective Officers, and all others whom it may concern, are to take notice, and give due and ready Obedience thereunto.

As by the ſaid ſeveral and reſpective Minutes, Report and Orders, or the Regiſter Books of his Majeſty's Privy Council, and of the ſaid Committee of Trade and Plantations, re-
109 lation being thereunto reſpectively had, may more fully and at large appear.

That during the ſaid Conteſt in the Years 1683, 1684, and 1685, the ſaid then Lord *Baltimore*, upon the 8th of *October* 1685, produced to the then Committee of Trade and
110 Plantations an *unauthentick blank Paper*, not ſigned or ſealed at all, but drawn up in the Form of the Draught of a Report and Order of the Committee of Foreign Plantations, and *ſuppoſed* to be made on the 4th of *April* 1638, touching Differences between ſome Lord *Baltimore* and one Mr. *Clayborne*, about the Iſle of *Kent*, in order to ſhew that former
111 Board's Opinion touching the Lord *Baltimore*'s Right to the Iſle of *Kent*; and the ſaid then Committee of Trade and Plantations, in 1685, put off the Matter, and gave the ſaid Lord *Baltimore* time to procure an *atteſted* Copy of ſuch pretended Report or Order in 1638, which the ſaid Lord *Baltimore* undertook to procure.

But

But nine Days after, the ſaid Lord *Baltimore* declared, in Perſon, to the ſaid Committee of Trade and Plantations, namely on the 17th of *October* 1685, that he could not find
112 the Original, whereby an atteſted Copy might be procured.

Neither, as the Plaintiffs Charge, was *there ever any ſuch Order*.

That, before the time the ſaid laſt mentioned Order of Council of *November* 1685, was made, the Plaintiffs Father had not made any very large or very expenſive Improvements on
113 the ſaid three lower Counties, but, after the ſame Order was made, the Plaintiffs Father, conceiving that by the ſame Order the Matter of the ſaid then Lord *Baltimore*'s ill-grounded Claim or Preſence was finally concluded and at an end, did, at a prodigious Expence, of vaſt Sums of Money, which were raiſed by Mortgage and Sale of his Family Eſtate in the Kingdoms of *England* and *Ireland*, and by great Sums of Money which he borrowed, even upon Mortgage of the Lands in *America* ſo granted to him as aforeſaid, and
114 by purchaſing the Lands from the *Indian* Natives and Owners, and by repeated and continual Preſents, to, and Treaties with, the *Indians*, and by great and continual Pains, Labour and Induſtry, and by many repeated Toils and Hazards of his Life, in Voyages to *Penſilvania*, and the three lower Counties, and back again, and otherwiſe, very greatly diſtreſs and ruin his Family and Eſtate, but did, as greatly, ſettle, cultivate and people the ſaid Lands, ſo granted to him as aforeſaid, and more particularly the ſaid three lower Counties.

115 So that, at this time, moſt part, if not all, of the Lands in the ſaid three lower Counties are taken up and cleared, and many thouſands of beautiful Plantations are made therein, and alſo many Towns, Villages, Churches, Meetings, Court-Houſes, Aſſembly-Houſes, Forts, Harbours, Piers, Dwelling-Houſes, and other publick and private Structures, Buildings, Edifices and Improvements, are built and made therein.

That the *Swedes* and *Dutch*, who anciently were in thoſe Parts now called the three lower Counties, had, during the time of their ſeveral and reſpective Poſſeſſions, made divers
116 conſiderable Purchaſes of great Tracts of Lands, within what are now called the ſaid three lower Counties, from the *Indian* Natives, Owners and Poſſeſſors of ſuch Lands, for valuable Conſiderations, and the right in and to ſuch *Indian* Purchaſes paſſed to and was well and legally veſted in, the Plaintiffs ſaid Father in Fee.

And, not only ſo, but the Plaintiffs ſaid Father, himſelf, after the ſaid beforementioned Grants made to and in Truſt for him as aforeſaid, did, for valuable Conſiderations, pur-
117 chaſe of the *Indian* Natives and Owners of the Lands comprized within the Limits of the ſaid three lower Counties, and from their Kings and Sachems, all thoſe Lands from *Quing Quingus*, called *Duck Creek*, unto *Up-land*, called *Cheſter Creek*, laying all along by the ſide of *Delaware* River, and ſo, between the ſaid Creeks, backwards, as far as a Man can ride with a Horſe in two Days; and accordingly, by Deed or Deeds, duly executed, the ſaid *Indians*, and their Heads and Sachems, did convey to the Plaintiffs ſaid Father,
118 his Heirs and Aſſigns, all the ſame Lands laſt mentioned, as by the ſaid Deeds and Conveyances, had the Plaintiffs the ſame at preſent in this Kingdom to produce, relation being thereunto had, might and would more fully appear.

And the Plaintiffs expreſsly Charge, that the ſame laſt mentioned Lands, comprized in the ſaid laſt mentioned Deeds or Conveyances to their Father from the *Indians*, do, of them-
119 ſelves, make up at leaſt three fourth Parts of all the Lands within the ſaid three lower Counties, beſides that the other Parts of the ſame three lower Counties have been, heretofore purchaſed by the ſaid *Swedes* and *Dutch*, and by the Plaintiffs, and thoſe under whom they Claim.

That, *from the ſaid Month of* Nov. 1685, *unto the Month of* Jan. 1708, *which was above 23 Years*, the ſaid Lord *Baltimore*, who had had ſo many Hearings in the Years 1683,
120 1684 and 1685, and at laſt ſuch a full and final Determination made againſt his ill-grounded Pretenſions in the Year 1685 as aforeſaid, *ſuffered the Plaintiffs Father to go on peaceably and quietly, without the leaſt Claim or Interruption whatſoever*, to make ſuch Purchaſes, and to people, ſettle, clear, cultivate, improve and govern the ſaid three lower Counties
121 as aforeſaid, in which ſaid 23 Years the greateſt part of the Expence of the Plaintiffs Father was laid out, during the Infancy and firſt peopling and clearing of the ſaid Province or Colony.

But in the Month of *Jan.* 1708, the very ſame *Charles* Lord *Baltimore*, who by himſelf, and his Agents and Council had had ſo many Hearings allowed him in the Years 1683,
122 1684, and 1685 as aforeſaid, preſented a Petition to her late Majeſty Queen *Anne*, and, after having mentioned the Name of the Plaintiffs Father, he the ſaid Lord *Baltimore* did expreſsly ſuggeſt, and pray, by his ſaid Petition to her ſaid Majeſty in *Jan.* 1708, amongſt other things, in the Words following, that is to ſay, " That on the 7th of *Nov.* 1685
123 " the ſaid *Penn*, falſly ſuggeſting that your Petitioner by his Grant from your Royal Grandfather was to have no Land but what was cultivated by Savages (though the ſaid Suggeſ-
" tion was directly contrary to the Words and Intent of your Petitioner's Grant) obtained an Order of Council for dividing an Iſthmus of Land lying between the River and Bay of
" *Delaware* and the Eaſtern Sea on the one ſide, and the *Cheſapeake* Bay on the other ſide, and thereby has endeavoured *without your Petitioners being ever heard to or having No-*
124 " *tice of ſuch Order*, to deprive your Petitioner of his Inheritance granted to him by the Bounty of your Royal Grandfather, your Petitioner therefore moſt humbly prays that the
" ſaid Order, *thus ſurreptitiouſly gotten*, may be ſet aſide.

That the ſaid Petition of the ſaid *Charles* Lord *Baltimore* in *January* 1708, being, on the 9th of the ſame *January* 1708, referred by her ſaid late Majeſty Queen *Anne*, to the
125 Conſideration of the then Lords Commiſſioners for Trade and Plantations, the Plaintiffs Father, the ſaid *William Penn*, upon the 27th of the ſame *January* 1708, preſented his Petition to her ſaid late Majeſty, repreſenting that the Matters in difference had, upon the Lord *Baltimore*'s own Petition and Requeſt, been examined before the then Lords Committee for Trade and Plantations, it that time conſiſting of the whole Privy Council, in the Years 1684 and 1685; who, *after ſeveral Hearings* of the Lord *Baltimore* and the
126 ſaid *William Penn*, and of their reſpective Council *and* Advocates, and long Deliberation, had of the Allegations and Proofs produced before them, had reported their Opinions thereon, and how the Boundaries ſhould be ſettled; which Report had, in the Month of *November* 1685, been approved of and confirmed by an Order of the King in Council; and that the ſaid *William Penn*, not doubting but that the Lord *Baltimore* would acquieſce under the Royal Determination *which himſelf had deſired*, the ſaid *William Penn*, and his
127 Tenants, had, ever ſince, improved the diſputed Lands which were allotted to the ſaid *William Penn*, but, to his great Surprize, *after 23 Years quiet Poſſeſſion under that Sentence*, the Lord *Baltimore* had petitioned the Queen to ſet aſide the King's Order in Council, *which was intended to be final*; and the ſaid *William Penn*, for the Reaſons in ſuch his Petition contained, prayed her ſaid late Majeſty not to countenance an attempt ſo injurious to Property and the Rights of her Subjects, but to order the Lord *Baltimore*'s Petition to be diſmiſſed.

128 That her ſaid late Majeſty, by her Order in Council of the 27th Day of *January* 1708, was pleaſed to order, and did order, that the ſaid Petition of the ſaid Lord ſhould be and was thereby diſmiſſed, and that the Lords Commiſſioners for Trade and Plantations, to whom that Petition was by an Order of the 9th then Inſtant referred, ſhould not proceed to examine into the Allegations thereof as by the ſame Order was directed.

129 That the ſaid *Charles* Lord *Baltimore*, not yet reſting ſatisfied, He, on the 19th of *May* 1709, preſented another Petition to her ſaid late Majeſty, *again expreſsly aſſerting* that the ſaid Order of Council of the 7th of *November* 1685, had been obtained *by falſe Suggeſtions* of the ſaid *William Penn*, *and without the ſaid* Charles *Lord* Baltimore *being ever*
130 *heard by himſelf or Council*; and the ſaid *Charles* Lord *Baltimore*, in his ſaid Petition of *May* 1709, took notice of the Allegation in the Petition of the ſaid *William Penn* of *January* 1708, that the ſaid Order of Council had been obtained *after ſeveral Hearings* of the ſaid Lord *Baltimore* and his Council, but, in Anſwer and direct Contradiction thereto, the ſaid Lord *Baltimore* aſſerted that *he could fully prove that he had no Notice of the ſaid Order*.

131 That her ſaid late Majeſty by her Order in Council of the ſaid 19th of *May* 1709, was pleaſed to order that the matter of the ſaid laſt mentioned Petition ſhould be heard *before her Majeſty in Council*, in *June* then next, whereof all Parties concerned were to take Notice and come prepared to be heard with their Council learned at that time, accordingly

132 That the ſaid *Charles* Lord *Baltimore* and the Plaintiffs Father were accordingly heard, before her ſaid late Majeſty in Council, and, thereupon, by her ſaid late Majeſty's Order in Council, of the 23d of *June* 1709, reciting the ſaid Lord *Baltimore*'s laſt mentioned Petition and Allegation that the ſaid Order of 1685, had been obtained by the falſe Suggeſtions of the ſaid *William Penn*, and without the ſaid Lord *Baltimore*'s having been heard thereupon, and that both Parties had, purſuant to her ſaid Majeſty's Order, that Day
133 attended, and been fully heard, with their Council learned, *and that it had appeared, by authentick Copies of Proceedings at that Board*, that as well the then Petitioner the ſaid *Charles* Lord *Baltimore*, as the ſaid *William Penn*, *had been divers times heard*, before the making of the ſaid Order, her ſaid late Majeſty, with the Advice of her Privy Council, was pleaſed to order that the ſaid Lord *Baltimore*'s Petition ſhould be *diſmiſſed* that Board. And that the above-mentioned Order of Council of the 13th of *November* 1685,
134 *ſhould be ratified and confirmed* in all its Points, and be put in Execution, without any further delay; as by the ſaid ſeveral and reſpective Petitions and Orders in *January* 1708, and in *May* and *June* 1709, relation being thereunto reſpectively had, may more fully appear

135 That the matter being again fully and finally ſettled and adjuſted as aforeſaid, by the ſaid Order of *June* 1709, the Plaintiffs Father remained in quiet and peaceable poſſeſſion of the ſaid three Lower Counties, ever after during all the remainder of his Life.

And the ſaid *William Penn*, on or about the 30th Day of *July* in the Year 1718, departed this Life, having firſt duly executed his laſt Will and Teſtament, in writing, bearing
136 Date ſome time in or about the Year 1711 or 1712, and thereby deviſed to his dear Wife *Hannah Penn*, the Plaintiffs late Mother (ſince deceas'd) and ſeveral other Perſons and their Heirs, all his Lands, Tenements, and Hereditaments, whatſoever, Rents and other Profits, ſituate, lying and being in *Penſilvania* and the Territories thereunto belonging, or elſewhere in *America*, upon Truſt that they ſhould ſell and diſpoſe of ſo much thereof as ſhould be ſufficient to pay all his juſt Debts, and from and after Payment thereof con-
137 vey 40,000 Acres, part thereof, in manner therein directed, and all the reſt of his Lands and Hereditaments whatſoever, ſituate, lying and being in *America*, He willed that his ſaid Truſtees ſhould convey to and amongſt his Children which he had by his then Wife, in ſuch proportions, and for ſuch Eſtates, as his ſaid Wife ſhould think fit; and all his perſonal Eſtate in *Penſilvania*, and elſewhere, and Arrears of Rent due there, he gave to his ſaid Wife, whom he made ſole Executrix, for the equal Benefit of her and her Children.

138 Which ſaid laſt Will and Teſtament was duly proved, by the ſaid *Hannah* the Plaintiffs Mother, the ſole Executrix thereof, on or about the 4th Day of *November* 1718, in common form, in the Prerogative Court of the Archbiſhop of *Canterbury*, and was afterwards duly proved by Witneſſes, upon a proper Suit for that purpoſe brought againſt the Heir at Law of the ſaid *William Penn*, and eſtabliſhed by Decree in his Majeſty's Court of Exchequer at *Weſtminſter*, as in and by ſuch laſt Will and Teſtament, and the ſeveral and reſpective Proofs thereof, relation being thereunto had, may more fully appear.

139 That the ſaid *Hannah Penn*, by Deed-poll under her Hand and Seal duly executed, bearing Date on or about the 18th Day of *November*, in the ſaid Year of our Lord 1718, reciting amongſt other Things the ſaid laſt Will and Teſtament of the ſaid *William Penn*, the ſaid *Hannah Penn*, in purſuance of all Powers which ſhe had or was inveſted with, did
140 direct and appoint all the reſt and reſidue of the Lands, Tenements, and Hereditaments, and of the Rents and other Profits of them, late of the ſaid *William Penn* deceaſed, lying and being in *Penſilvania* aforeſaid, and the Territories thereunto belonging, or elſewhere in *America*, that ſhould remain after the Proviſions in the ſaid Will (ſubject nevertheleſs to the Debts of the ſaid *William Penn* deceaſed, according to his ſaid Will) ſhould be conveyed in manner following, that is to ſay, three full and equal Parts of ſuch reſt and reſidue
141 (in ſix equal Parts to be divided) of and in all that the Country or Province in *America* called *Penſilvania*, and three full equal ſixth Parts of all Lands, Tenements, and Hereditaments whatſoever, Rents and other Profits late of the ſaid *William Penn* deceaſed, within or part of the ſaid Country or Province, ſhould be conveyed, by the ſaid Truſtees for the time being and the Survivor of them, and the Heirs and Aſſigns of ſuch Survivor, to and to the Uſe of the Plaintiff *John Penn*, eldeſt Son of the ſaid *Hannah* by the ſaid *William*
142 *Penn* deceaſed, and of the Heirs and Aſſigns of the ſaid *John Penn*; and, as to the remaining three ſixth Parts of the ſame, that the ſaid Truſtees ſhould convey the ſame to the Uſe of her three other younger Children by the ſaid *William Penn* deceas'd, namely, the Plaintiffs *Thomas Penn*, and *Richard Penn*, and *Dennis Penn*, their late Brother (ſince de-
143 ceaſed) and their Heirs and Aſſigns, as joint Tenants, for ever: And as to all the reſt and reſidue that ſhould remain of all that Tract of Land in *America*, late of the ſaid *William Penn* her late Huſband deceaſed, adjoining to *Penſilvania* aforeſaid, and commonly called the three Lower Counties, and all Lands, Tenements, and Hereditaments, whatſoever, Rents and other Profits, late of the ſaid *William Penn* her ſaid late Huſband, in the ſaid three Lower Counties, or in Eaſt and Weſt *Jerſey*, or elſewhere in *America* (ſubject alſo
144 as aforeſaid to the Debts of the ſaid Teſtator) ſhe did, in like manner, direct, limit and appoint that three full and equal Parts (the whole into ſix equal Parts to be divided) ſhould be, by the ſaid Truſtees, conveyed to and to the Uſe of her ſaid eldeſt Son the Plaintiff *John Penn*, and of his Heirs and Aſſigns; and, as to the remaining three ſixth parts of the ſame, to be conveyed to the Uſe of her ſaid three younger Children *Thomas Penn*, *Richard Penn*, and *Dennis Penn*, and their Heirs and Aſſigns, as joint Tenants, for ever, as by the ſaid Deed-poll or Appointment, relation being thereunto had, may more fully and at large appear.

145 That the ſaid *Hannah Penn* departed this Life on or about the 20th Day of *December*, in the Year 1726, and the ſaid *Dennis Penn* her Son, departed this Life on or about the Day of in the Year , an Infant of very tender Years, and without Iſſue.

146 And that, by Indentures of Leaſe and Releaſe, bearing Date, reſpectively, on or about the and Days of which was in the Year of our Lord the then only ſurviving Truſtees, named in the ſaid laſt Will and Teſtament of the ſaid *William Penn*, did duly convey unto the Plaintiffs (purſuant to the Directions in the ſaid Appointment of the ſaid *Hannah Penn*) all and ſingular the Lands, Hereditaments and Premiſſes in the ſaid Appointment mentioned; to hold unto the Plaintiffs, reſpectively, for
147 ſuch reſpective Eſtates as by the ſaid Appointment was directed, limited, appointed and intended; as in and by the ſaid recited Indentures of Leaſe and Releaſe, had the Plaintiffs the ſame in this Kingdom to produce, relation being thereunto reſpectively had, may more fully and at large appear.

That the ſaid *William Penn*, in his Life-time, had put himſelf to ſo very great Expence, in improving the ſaid Countries, that, beſides ſelling part of his Family Eſtate in *Eng-*
148 *land* and *Ireland* for that purpoſe, of an exceeding great yearly Value, he was obliged to Mortgage, and in or about, the Year 1708 did Mortgage, his ſaid Lands in *America*, to *Joſhua Gee*, *John Wood*, and others, for 6,600 *l.* which Mortgage lay upon the ſaid Lands, at Intereſt, for above twenty Years; but, in the Year 1729, the Mortgagees, or the Survivors of them, reconveyed the ſaid Mortgaged Premiſſes to the Plaintiffs for the reſpective Eſtates mentioned in the ſaid Deed of Appointment made by the Plaintiffs Mother;
149 as by the ſaid Mortgage, and Reconveyance, had the Plaintiffs the ſame now in this Kingdom to produce, relation being thereunto had, would appear.

Under which ſaid Will, Appointment and Conveyance, Mortgage and Reconveyance, the Plaintiffs entered into the Premiſſes, and now are, and ever ſince the death of the ſaid *Hannah Penn* have been, in the quiet and peaceable Poſſeſſion of the ſaid three Lower Counties, and of all the Lands, Tenements and Hereditaments therein.

150 That the ſaid *Hannah Penn*, immediately after the deceaſe of the ſaid *William Penn*, did enter into, and from the time of the death of the ſaid *William Penn*, down to the time of her own death as aforeſaid, was in the quiet and peaceable Poſſeſſion of the ſaid three Lower Counties, and of all the Lands, Tenements and Hereditaments therein.

And the ſaid *William Penn*, in his Life-time, and the ſaid *Hannah Penn*, after his death, during her Life, and the Plaintiffs, ſince her death, down to this time, reſpectively,
151 have, frequently, and from time to time, as occaſion required, appointed Deputy or Lieutenant-Governors of the ſaid three Lower Counties, and begun, continued, and carried on, the great Improvements now in being thereon, at their own ſole and prodigious Expence.

That,

That, during the time the ſaid *Hannah Penn* was ſo poſſeſt of the ſame three Lower Counties as aforeſaid, and during the Infancy of the Plaintiffs, the Defendant *Charles Cal-*
152 *vert* Eſq; commonly called *Charles* Lord *Baltimore* in the Kingdom of *Ireland*, the Grandſon of the ſaid *Charles* Lord *Baltimore* who petitioned her ſaid late Majeſty Queen *Anne* in *January* 1708, and *May* 1709 as aforeſaid, and who is, or pretends to be, the Heir at Law to the ſaid *Cecilius* Baron of *Baltimore*, to whom the ſaid Grant of the Province of *Maryland* was made in 1632, applied, in his own Perſon, to the ſaid *Hannah Penn*, and admitted to her that he had no Colour or Pretence of Title to the ſaid three Lower
153 Counties, or to any part of them, but repreſented that, as the Bounds of the ſaid Provinces of *Penſilvania* and *Maryland* had not been, by any particular and exact Land-Marks, laid out and deſcribed, ſome of his, and likewiſe ſome of her, Tenants, upon the Borders, refuſed to pay their Quit-Rents, and other Inconveniencies aroſe, both to the ſaid *Hannah Penn* and *Charles* Lord *Baltimore*, and therefore, propoſed that, till the Bounds could be exactly ſet out and deſcribed, no more Lands ſhould be granted out, by either of
154 them, near the Borders.

And, thereupon, an Agreement, in Writing, bearing Date on or about the 17th Day of *February*, in the Year 1723, was duly ſigned and executed, by and between the ſaid *Hannah Penn* and *Charles* Lord *Baltimore*, in the Words, or to the Effect, following, that is to ſay,

Whereas there are Diſputes depending between the reſpective Proprietors of the Provinces of *Maryland* and *Penſilvania*, touching the Limits or Boundaries of the ſaid Provinces
155 where they are contiguous to each other: And whereas both Parties are, at this time, ſincerely inclined to enter into a Treaty, in order to take ſuch Methods as may be adviſeable for the final determining the ſaid Controverſy, by agreeing upon ſuch Lines, or other Marks of Diſtinction, to be ſettled, as may remain for a perpetual Boundary between the two Provinces; it is therefore mutually agreed, between the Right Honourable *Charles* Lord *Baltimore*, Proprietor and Governor of *Maryland*, and *Hannah Penn* Widow
156 and Executrix of *William Penn* Eſq; late Proprietor and Governor of *Penſilvania*, and *Joſhua Gee* of *London*, Merchant, and *Henry Gouldney* of *London*, Linnen-Draper, in behalf of themſelves and the Mortgagees of the Province of *Penſilvania*, that, for avoiding of all manner of Contention or Differences between the Inhabitants of the ſaid Provinces, no Perſon or Perſons ſhall be diſturbed or moleſted in their Poſſeſſion, on either ſide, nor any Lands be ſurveyed, taken up or granted, in either of the ſaid Provinces, near the
156* Boundaries which have been claimed or pretended to on either ſide; this Agreement to continue for the ſpace of 18 Months, from the Date hereof; in which time, 'tis hoped, the Boundaries will be determined and ſettled. And it is mutually agreed on, by the ſaid Parties, that Proclamations be made, in the ſaid Provinces, ſignifying this Agreement, for the better quieting the People; and the Lieutenant-Governors, and other proper Officers of the reſpective Provinces, for the time being, are directed and enjoined to conform
157 themſelves agreeable hereunto, and to iſſue out Proclamations accordingly, upon the Receipt hereof. In Witneſs whereof the Parties above-named have hereunto ſet their Hands this 17th Day of *February* 1723. *Baltimore*, *Hannah Penn*, *Joſhua Gee*, *Henry Gouldney*. Witneſs *S. Clement*, *Charles Lowe*, *James Logan*.

As by the ſaid laſt recited Agreement, one Original part whereof, executed as aforeſaid, the Plaintiffs Charge was delivered to, and in the Poſſeſſion of, the ſaid preſent *Charles* Lord *Baltimore*, had the Plaintiffs the ſame to produce, relation being thereunto had, would and might fully appear.

158 That, in Purſuance and Performance, on the part of the ſaid *Hannah Penn*, of the ſaid laſt mentioned Agreement, a Proclamation was duly publiſhed, on or about the 15th Day of *May* in the Year 1724, by Sir *William Keith* Bart. then Deputy-Governor under the ſaid *Hannah Penn* in and over the ſaid Province of *Penſilvania*, and the ſaid three
159 Lower Counties, reciting at full Length the ſame Agreement, and notifying the ſame to the Inhabitants under his Government, and requiring the Obſervation of the ſame Agreement.

And a like Proclamation, purſuant to the Tenor of the ſaid Agreement, ought to have been made and publiſhed by the Governor, or Lieutenant, or Deputy-Governor of the ſaid preſent *Charles* Lord *Baltimore*, and ſo the Plaintiffs Charge was done by the expreſs Direction of the ſaid preſent Lord *Baltimore* himſelf.

That the Matters aforeſaid remained at quiet, under the ſaid laſt mentioned Agreement, not only during the 18 Months therein mentioned, but for a much longer time, in Ver-
160 tue and Conſequence, and under the true intent, meaning and equity of the ſaid Agreement.

And, although the exact Marks and Bounds of the ſaid Provinces and Colonies were not marked out under the ſaid Agreement, which was partly occaſioned by the neglect of the ſaid *Charles* Lord *Baltimore*, and partly by the death of the ſaid *Hannah Penn*, and by the Infancy of the Plaintiffs and the ſaid *Dennis Penn*, or of ſome of them, yet, the
161 Plaintiffs ſaid Mother, and the Plaintiffs on their part, juſtly and duly obſerved the ſaid Agreement; and did not grant out any Lands whatever near to the Borders.

That the ſaid preſent *Charles* Lord *Baltimore* did not, on his part, obſerve the ſaid Agreement, but hath and did, from the time of firſt entering into the ſaid Agreement, by himſelf and his Governors, Commiſſioners, Officers, and other Servants, make many very large and extenſive Warrants and Grants, of great Quantities of Lands, to ſundry Per-
162 ſons, without ſpecifying where, and in what Places, the ſame did, or were to lie, or were to be taken up; and this, as the Plaintiffs charge, with expreſs Intent and Deſign that ſuch Grantees ſhould, under his the ſaid preſent *Charles* Lord *Baltimore*'s Grants, ſeat down upon, and take up Lands, where ever they pleaſed, and could find vacant Lands; thereby deſigning and intending to attempt to ſtretch, and extend, his Grants and Settlements far beyond the true Limits and Bounds of the Grant made to the ſaid *Cecilius*, to the great Wrong and Injury of the Plaintiffs.

163 That the ſaid preſent *Charles* Lord *Baltimore*, on or about the firſt Day of *July* 1731, did, by Petition, which he preſented, or cauſed and directed to be preſented, to his pre-
164 ſent Moſt Gracious Majeſty, pray his ſaid Majeſty to order the Proprietors of *Penſilvania* (meaning the Plaintiffs) forthwith to join with him in ſettling and aſcertaining the Boundaries, and, in caſe they refuſed to comply therewith, or in caſe the ſame ſhould not be ſettled and aſcertained within the ſpace of twelve Months, that, then, his Majeſty would pleaſe to hear the Matter in diſpute, and to give ſuch Order, and to make ſuch Determination, touching the ſame, as to his Majeſty in his great Wiſdom ſhould ſeem meet; and, to induce his Majeſty to grant ſuch the Prayer of the ſaid laſt mentioned Petition, the ſaid *Charles* Lord *Baltimore* did, in and by the ſaid laſt mentioned Petition, ſet forth his own
165 Right and Title, or pretended Right and Title, in the words following, that is to ſay,

" That your Petitioner, and his Anceſtors, by Grant, under the great Seal, ever ſince the Year 1632, is and have been Proprietor and Proprietors of the Province of *Mary-*
" *land*, and, among other things, entitled to all that part of a Peninſula, lying in the parts of *America*, between the Ocean on the Eaſt, and *Cheſopeak* Bay on the Weſt, and
166 " divided from the other Part thereof by a right Line, drawn from the Promontory or Cape of Land called *Watkin*'s Point (ſituate in the aforeſaid Bay near the River *Wighco*) on
" the Weſt, unto the Main Ocean on the Eaſt, and, between that Bound on the South, unto that part of *Delaware* Bay on the North, which lyeth under the 40th Degree of
" Northern Latitude from the Equinoctial, where *New England* ends."

By which Deſcription, as the Plaintiffs expreſly Charge, the ſaid preſent *Charles* Lord *Baltimore* did, in and by his ſaid Petition, exclude, and did mean and intend to exclude,
167 and not to comprize or include, the ſaid three Lower Counties, or any part of the ſame.

That his Majeſty, by his Order in Council of the ſaid firſt Day of *July* 1731, was pleaſed to refer the ſaid laſt mentioned Petition to the Conſideration of the Right Honourable the Lords of the Committee of his Majeſty's moſt Honourable Privy Council for hearing Appeals and Complaints from the Plantations.

168 And their Lordſhips of the ſaid Committee, by their Order of the Day of the ſaid Month of *July* 1731, were pleaſed to refer, again, the ſaid laſt mentioned Petition to the Conſideration of the Right Honourable the Lords Commiſſioners for Trade and Plantations; as by the ſaid laſt mentioned Petition, and ſeveral Orders made thereon, relation being unto them ſeverally and reſpectively had, may more fully and at large appear.

169 That, ſo ſoon as the ſaid preſent *Charles* Lord *Baltimore* had preſented ſuch his Petition to his Majeſty, and obtained ſuch Orders thereon as aforeſaid, he the ſaid preſent *Charles* Lord *Baltimore*, well knowing (as the Plaintiffs charge that the Truth is) that the Plaintiffs were young Men, juſt come of Age, and wholly and utterly unacquainted with, and
170 Strangers to, the ſaid old intricate Diſputes in 1683, 1684, 1685, 1708, and 1709, and not born or in Being at the Times thereof, and alſo well knowing (as the Plaintiffs charge he did) that the Paintiffs Father, in the great Undertaking therein beforementioned, had worn himſelf out, and was, for many Years during the latter Part of his Life, greatly impaired in his Mind, Body and Fortune, and that his Papers and Writings, relating to the ſaid Old Tranſactions, had all been loſt or miſlaid, and that the Plaintiffs were in a help-
171 leſs Condition in reſpect thereto, and, intending to make to himſelf, by means thereof, and of the Plaintiffs Ignorance of the Premiſſes, great and undue Advantage againſt the Plaintiffs, he the ſaid preſent *Charles* Lord *Baltimore* did, *entirely of his own Motion*, apply by himſelf in Perſon to the Plaintiffs then Sollicitor, and deſired to have a Meeting between the Plaintiffs and Defendant, in order to ſettle and agree the Matters in Difference between them; the ſaid Defendant declaring that, if they could not agree, he would ſet up his
172 former Pretence to the ſaid 3 lower Counties, or to Part thereof,

Which Deſire of the Defendant being made known to the Plaintiffs, or ſome of them, the Plaintiffs, or the ſaid *John* and *Thomas Penn* did, upon the 20th Day of *July* 1731 (*after ſeveral previous Meetings* before had between the Plaintiffs and Defendant on the ſame Subject) meet and treat with the ſaid Defendant touching an Agreement to be made between them for ſettling the Differences between them.

173 And, at that Meeting, on the ſaid 20th Day of *July* 1731, the ſaid Defendant produced, out of his own Pocket, a Map or Plan of the Peninſula herein beforementioned, and of ſeveral contiguous and adjacent Parts thereto, and, with a Rule and Pencil, did (with his own Hands) draw Lines upon the ſaid Map or Plan ſo by him produced, both a-croſs, and,
174 alſo up in near the middle Part of the ſaid Peninſula, to denote in what Manner he inſiſted the Bound-Lines ſhould be really run, and particularly ſo as to exclude from him, and to include to and for the Plaintiffs, the ſaid 3 Lower Counties.

And the Defendant did, then and there, inſiſt that his Northern Bounds for *Maryland*, in the other Parts of that Province where the 3 Lower Counties did not adjoin to that Province on the North Part, ſhould extend Northward as far as to within 15 Miles South of the City of *Philadelphia* in *Penſilvania*; which, as the Plaintiffs charge, he himſelf be-
175 lieved and knew, and ſo the ſame in fact is true, would carry his general Northern Bounds *much higher than every Part of the ſaid Peninſula, and the Iſthmus thereof, and a conſiderable way within the main Land and Continent itſelf.*

And the Plaintiffs, and particularly the ſaid *John Penn* and *Thomas Penn*, then deſired and inſiſted that he ſhould agree that his general Bounds ſhould extend Northwards but only to within 20, or at moſt to within 18 Miles, South of the ſaid City of *Philadelphia*; but the Defendant utterly refuſed to conſent thereto.

176 And the Plaintiffs, and particularly the ſaid *John* and *Thomas Penn*, on their Parts, alſo produced a Map or Plan of the ſaid Peninſula and Parts adjacent, and, with a Pen or Pencil, drew Lines thereon, to denote how they propoſed the Bound-Lines to be run.

But the Defendant refuſed to recede, in any Point, how ſmall ſoever, from what he had propoſed.

And the Plaintiffs thereupon, after a good deal of Debate had at that Meeting of the 20th of *July* and the ſeveral former Meetings, did verbally agree to let the Bounds run in the manner then verbally propoſed by the Defendant.

178 And, thereupon, another Meeting was propoſed between the Plaintiffs and Defendant for the 22d of the ſaid Month of *July* 1731, in order that, againſt ſuch Meeting, ſome ſhort Minute or Note, in Writing, might be prepared of their Agreement.

And, accordingly, the Plaintiffs, or the ſaid *John* and *Thomas Penn*, did, upon the ſaid 22d of *July* 1731, again meet the Defendant; at which laſt Meeting the Defendant took
179 out of his Pocket, and produced, and read to the Plaintiffs a Paper, of his own Hand-Writing, which, he ſaid, was the Notes in ſhort of what had been ſo propos'd and talk'd of as aforeſaid, at the former Meeting two Days before (which Notes were then many times read over) and that, upon the Foot of thoſe Notes, an Agreement in Form ſhould be drawn out, between him and all the Plaintiffs; which the Plaintiffs agreed to.

180 And, thereupon, the Plaintiffs, and their ſaid then Sollicitor, deſired the Defendant to give to them that Paper or Propoſal which had been ſo produced and read to them, in order to aſſiſt in drawing up the Agreement in form therefrom; which the Defendant, at firſt, agreed to, but, after ſome Time, ſaid that he had no Copy of ſuch Paper or Propoſal, and, therefore, did not chuſe to deliver over that very Paper, or to the like Effect, but promiſed that he would deliver the ſame (and accordingly he did inſtantly in the Plaintiffs Preſence
181 deliver the ſame) to his the Defendant's Sollicitor, and directed his the Defendant's Sollicitor to give the Plaintiffs a Copy thereof.

And then, an Obſervation was made, by ſome Perſon during ſuch laſt Meeting, that it would be difficult, by any Agreement, or Form of Words, how full ſoever, to deſcribe the Bounds, clearly and plainly, without annexing to the Agreement, or referring therein to, ſome Map or Plan, to help illuſtrate and explain the ſame, which the ſaid Defendant agreed, or ſeemed to agree, to the Reaſonableneſs and Fitneſs of doing.

182 And, thereupon, a Queſtion was moved, between the Plaintiffs and Defendant, Whoſe Map or Plan ſhould be affixed to the Agreement, when drawn out? And the Defendant inſiſted, and the Plaintiffs agreed thereto, that not the Map or Plan produced by the Plaintiffs, but that which was produced by the ſaid Defendant himſelf ſhould be affixed to the ſaid Agreement, when drawn out.

183 And then, another Queſtion was alſo moved, between the Plaintiffs and Defendant, What Perſon ſhould engrave the Defendant's Map or Plan, in order to the affixing the ſame to ſuch Agreement, when ſo prepared? And the Plaintiffs named one Perſon for the graving the ſame, but the Defendant named and inſiſted on another, different Perſon, namely, Mr. *Senex*, a Mathematician, for the engraving the Defendant's ſaid Map or Plan for the Purpoſe aforeſaid, and the Plaintiffs as they had before agreed to every one of the Defendant's Propoſals, ſo they agreed to this laſt, likewiſe.

184 That, in 3 or 4 Days after the ſaid laſt Meeting, the Defendant's Sollicitor did (purſuant to ſuch Directions given to him as aforeſaid) deliver over to the Plaintiffs, or to ſome Perſon on their Behalf, a Paper as a true Copy (but very much abbreviated) of the ſaid written Paper or Propoſal which had been ſo produced by the Defendant at the ſaid laſt Meeting.

185 And the material Parts of the ſame, being ſhort, are in the very Words or to the Effect following, that is to ſay,

" 1. There ſhall be a Circle of 12 Miles Diſtance drawn from *Newcaſtle*.

" 2. The Proprietors of *Penſilvania* ſhall be entitled to 15 Miles South of *Philadelphia*, by a Weſt Line drawn, from the Point of the South and North, to the Extent of their
" Weſt Limits compriſed in the Charter of *Penſilvania*.

" 3. There ſhall be a Line, South, drawn from the Eaſt and Weſt Line aforeſaid, which ſhall intercut the Periphery of the Circle of 12 *Miles from Newcaſtle*, until it intercut
186 " the Parallel of an Eaſt and Weſt Line drawn from the Promontory or Cape, called *Cape Hinlopen*, at Rectangles.

" 4. The Lord *Baltimore* to quit all Pretenſions to the 3 lower Counties, *known to be at preſent compriſed within the Limits aforeſaid*, that is to ſay within the 12 Miles Circle of
" *Newcaſtle* and the North and South Line drawn as aforeſaid on the Weſt, and the Bay of *Delaware* on the Eaſt.

" 5. The

187 " 5, The Proprietors of *Penſilvania* to quit all Pretenſions to any Land on the Southward of the Line of 15 Miles from *Philadelphia*, and to the Weſt of the North and South " Line heretofore deſcribed, and, for the Conſiderations aforeſaid, convey to the Lord *Baltimore* all Right and Title they may have thereunto belonging." With ſome other Clauſes, therein contained, not relating to the Bounds, but merely to the quieting the Poſſeſſors of the Lands in Diſpute: as by the Original of the Defendant's ſaid Paper or Propoſal, which
188 the Plaintiffs charge is now in the Cuſtody, Poſſeſſion or Power of the ſaid Defendant, or of ſome Sollicitor or Agent of his, and by the ſaid Copy thereof delivered, by the Defendant's Sollicitor, to the Plaintiffs, or ſome Perſon on their Behalf, Relation being thereunto had, may plainly appear.

That, in leſs than three Weeks Time after the ſaid Copy of the ſaid Defendant's Paper or Propoſal was ſo delivered over as aforeſaid, the Plaintiffs cauſed a Draught of Articles of
189 Agreement, at full Length, to be prepared, in order to be, after the ſame ſhould be ſettled, engroſſed and executed by the ſaid Parties; and the Draught of ſuch Agreement was deli-
190 vered over, by the Plaintiffs Direction, to the Defendant, or his Sollicitor, upon or about the 16th Day of *Auguſt* 1731; and the ſame Draught of the ſaid Agreement at length was, for very near 9 Months, namely from the ſaid 16th of *Auguſt* 1731 to the 10th Day of *May* 1732, under the conſtant and continual Examination of the Defendant himſelf, and of *Samuel Ogle* Eſq; the Defendant's Lieutenant or Deputy Governor of *Maryland*, and of Mr. *Wynne* the ſaid Defendant's Council, and of Mr. *John Sharpe* the ſaid Defendant's ſaid Sollicitor, and of Mr. *Senex* the Mathematician, ſo named as aforeſaid by the ſaid Defendant, and of many other Council, Agents and Perſons, employed by and for the ſaid Defendant.

191 And, during the Time the ſaid Draught of the Agreement was ſo under Conſideration as aforeſaid, the ſaid Defendant, or his ſaid Sollicitor, did carry the ſaid Defendant's own Map or Plan to the ſaid Mr. *Senex*, to be engraved; and he did engrave the ſame, and for which the Plaintiffs and Defendant have jointly paid the ſaid Mr. *Senex*.

And the ſaid Mr. *Senex* was deſired by the ſaid Defendant to give, and did give, his Opinion, *in Writing*, upon the Propriety and Fitneſs of the Terms and Expreſſions made uſe
192 of in the ſaid Draught of the ſaid Agreement.

And, during the long Time that the ſaid Draught of the ſaid Agreement was under ſuch Conſideration, by the ſaid Defendant and his ſeveral Agents and Friends beforementioned, the ſaid Defendant propoſed and inſiſted on *many After-thoughts*, of his own, or of his Agents or Adviſers, which he, likewiſe, inſiſted on, *tho' never before mentioned*.

193 And, amongſt many others, the ſaid Defendant inſiſted that, Whereas in his own Propoſals, and in the ſaid Draught of the Agreement, the 12 Miles Diſtance from *Newcaſtle*, and the 15 Miles South of *Philadelphia*, were only mentioned as *Miles in general*, they ſhould be expreſſed particularly, in the ſaid Articles of Agreement, to be 12 and 15 *Engliſh Statute Miles*, which the Plaintiffs agreed to, altho' they thought the ſame ought rather to have been *Geographical Miles*, which would have been more for their Benefit and Advantages.

194 And, again the ſaid Defendant inſiſted that the Heir at Law of the Plaintiffs Father (tho' the Will of the Plaintiffs Father had been proved by Witneſſes in a Court of Equity againſt the Heir at Law) and alſo, the Perſons intitled under the Will of the Plaintiffs Father to 40,000 Acres of Land in *America*, ſhould join in the ſaid Agreement, or, by ſome Indorſement, or other Inſtrument, agree to and confirm the ſame; which the Plaintiffs readily agreed they ſhould; and, accordingly, the ſaid Perſons afterwards did.

195 And, after the ſaid Draught of the Agreement had been, from the 16th of *Auguſt* 1731, to the 29th of *March* 1732, (which was above 7 whole Months) under the Conſideration of himſelf, and his Agents, as aforeſaid, the ſaid Defendant delivered, with his own Hand, unto the Plaintiffs, or their Sollicitor, a Note, of his own Hand-writing, the Purport of which he inſiſted ſhould be, likewiſe, inſerted in the ſaid Draught of the ſaid Agreement, to prohibit the People of the reſpective Provinces to carry on Commerce, into the Bays
196 of *Cheſopeak* and *Delaware*, by means of any Rivers leading from one of the Provinces aforeſaid to the other; which the Plaintiffs, tho' with a good deal of Unwillingneſs, alſo agreed to.

And, again, the Defendant, at another ſubſequent Time, inſiſted that a Clauſe ſhould be inſerted in the ſaid Draught of the Agreement, That, in caſe a ſufficient Quorum of the Commiſſioners, to be named on either Side, ſhould not, from time to time, according to the Appointments and Adjournments to be made for that Purpoſe, attend, to proceed in
197 the marking and running out the Lines and Bounds aforeſaid *(for want whereof the ſame could not be done within the Time limited)* then, the ſaid Agreement ſhould be void, and then, and in *ſuch* Caſe, the Party or Parties whoſe Commiſſioners ſhould make ſuch Default ſhould forfeit and pay, to the other Party or Parties whoſe Commiſſioners ſhould attend,
198 upon Demand, the Sum of 5000 *l.* of lawful Money of *Great-Britain*; which the Plaintiff, likewiſe, agreed to, and, accordingly, a Clauſe or Proviſo was inſerted in the ſaid Draught for ſuch Purpoſe.

And many other Alterations and Amendments were made, and inſerted, by the Defendant and his Agents and Adviſers, till they had made the ſaid Draught of the ſaid Agree-
199 ment entirely agreeable to the Defendant, and, when they had ſo done, the ſaid Draught was, in the Beginning of *May* 1732, re-delivered back again to the Plaintiffs Sollicitor, to be engroſs'd; and ſix ſeveral Parts thereof were inſtantly engroſs'd, on Parchment; on the Side or Margin whereof the Defendant's ſaid Map or Plan was ſtamped or printed.

And all the ſaid 6 Parts of the ſame Agreement were upon, or about the 10th Day of *May* 1732, in preſence of many Witneſſes, duly ſigned, ſealed and delivered by the Defendant and by the Plaintiffs.

200 That the ſaid original Articles of Agreement were indented and bore Date on or about the ſaid 10th Day of *May* 1732, and were made between the ſaid Defendant *Charles* Baron of *Baltimore* by the Deſcription and Addition therein contained of the one Part, and the Plaintiffs by the Deſcriptions and Additions therein contained of the other Part, and recited the ſaid Letters Patent or Charter of King *Charles* the First of *Maryland* to the ſaid *Cecilius* Baron of *Baltimore*, and the ſaid Letters Patent or Charter of King *Charles* the Second
201 of *Penſilvania* to the Plaintiffs ſaid late Father, and the ſaid two herein beforementioned Indentures of Feoffment from the ſaid Duke of *York* of the ſaid 3 lower Counties of *Newcaſtle*, *Kent* and *Suſſex* to the Plaintiffs ſaid Father; and alſo recited, in general, that ſeveral Diſputes and Differences had aroſe between the former Lord *Baltimore* and the ſaid *William Penn*, touching the reſpective Bounds and Limits of the ſaid Provinces of *Maryland* and *Penſilvania*, and between the ſaid Province of *Maryland* and the ſaid 3 lower Counties
202 of *Newcaſtle*, *Kent*, and *Suſſex*, but that, for the putting a final and friendly End and Accommodation to the ſaid Diſputes and Differences, the ſaid Parties to the ſaid Articles had come to the there following Agreement touching the ſame.

And the ſaid Articles did, therefore, witneſs that it was thereby mutually and reciprocally covenanted, promiſed, declared and agreed, by each and every one of the ſaid Parties thereto, for himſelf and his Heirs, Executors and Adminiſtrators, to and with all and every other of the ſame Parties thereto, and their ſeveral and reſpective Heirs, Executors, and Adminiſtrators, in manner therein after mentioned, and

203 1*ſt*, That the Draught or Plan, printed in the Margin upon that Skin of Parchment whereon the ſaid Articles were engroſſed (which contained a Map of the Peninſula, and alſo of the other Tracts of Ground therein mentioned) was a true Copy of thoſe which had been ſent over from *America* to the then preſent Parties to the ſaid Agreement by their *reſpective*
204 Agents in thoſe Parts, for the Aſſiſtance and Guidance of the ſaid Parties in the ſettling the ſaid Diſputes, and by which that preſent Agreement was to be explained and underſtood.

2*dly*, That there ſhould be the ſaid Circle, mentioned in the ſaid Charter for *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as was requiſite) drawn and marked out, at the 12 *Miles diſtance from the Town* of *Newcaſtle*, which 12 Miles ſhould be 12 *Engliſh* Statute Miles.

205 3*dly*, That a due Eaſt and Weſt Line ſhould be drawn, a-croſs the ſaid Peninſula, (or a-croſs ſo much of it as ſhould be requiſite) ſuch Eaſt and Weſt Line to begin, on the Eaſt Part, at the Place in the ſaid Draught or Map called Cape *Hinlopen*, which lay South of Cape *Cornelius*, upon the Eaſtern Side of the ſaid Peninſula, toward the main Ocean, and, at the Point of the ſaid Cape, and to run, towards the Weſtern Side of the ſaid Peninſula, which lay upon the *Cheſopeak* Bay; but to ſtop, in the exact middle of that Part of the ſame Peninſula, when ſo running a due Eaſt and Weſt Courſe.

206 4*thly*, That, from the Weſtward Point or End of the ſaid Eaſt and Weſt Line (which Weſtward Point or End ſhould be juſt half way a-croſs the ſaid Peninſula) a ſtrait Line ſhould run, Northwards, up the ſaid Peninſula (and above the ſaid Peninſula if it required it) till it ſhould ſo touch the Weſtern Part of the Periphery of the ſaid Circle as to make a Tangent thereto, and there the ſaid ſtrait Line ſhould end.

207 5*thly*, That at the Northern Point or End of the ſaid ſtrait Line, a Line ſhould begin, and ſhould, from thence, run, due North, above the ſaid Peninſula; but, ſo far only, until it came into the ſame Latitude as 15 *Engliſh* Statute Miles due South of the moſt Southern Part of the City of *Philadelphia*.

6*thly*, That a due Eaſt and Weſt Line ſhould be run in manner following. It ſhould begin at the Northern Point or End of the ſaid due South and North Line, and ſhould from
208 thence, run, due Weſt, croſs *Saſquehannah* River, to the utmoſt Weſtern Extent of the ſaid Province of *Penſilvania* (or ſo far in Part thereof as ſhould be at preſent requiſite, in regard that as the ſame was to be a due Eaſt and Weſt Line, the beginning Part thereof might be ſufficient to continue the ſame by, when further Occaſion ſhould require, and when the Lands Weſtward in the ſaid Provinces of *Maryland* and *Penſilvania* ſhould be better ſettled, and that it would occaſion a very great Expence, and likewiſe be at preſent needleſs, to
209 run the ſame to the utmoſt Extent Weſtward of the ſaid Province of *Penſilvania*, however, the ſame ſhould, at preſent, be run croſs *Saſquehannah* River and about 25 *Engliſh* Statute Miles further, on the Weſtern Side of the ſaid River.)

7*thly*, That the Part of a Circle, then drawn with red Ink upon the ſaid Draught or Plan, and the red Lines, alſo drawn thereupon, were then drawn to ſerve as an Explanation to that Agreement, but not with exact Certainty, in regard the ſaid Draughts or Plans, ſo ſent over to the Parties as aforeſaid, had neither Scale or Compaſs to them.

210 8*thly*, That the firſt there abovementioned due Eaſt and Weſt Line, to run from Cape *Hinlopen* to the middle of the Peninſula, and the ſaid ſtrait Line, to run from the Weſtward Point thereof, Northwards, up the ſaid Peninſula (and above the ſaid Peninſula if it required it) till it touched or made a Tangent to the Weſtern Part of the ſaid Periphery of the ſaid 12
211 Miles Circle, and the ſaid due South and North Line, to run from ſuch Tangent till it met with the upper or more Northern Eaſt and Weſt Line, and the ſaid upper Eaſt and Weſt Line, to begin from the Northern Point or End of the ſaid South and North Line, and to run due Weſtward (at that Time) croſs *Saſquehannah* River and 25 *Engliſh* Statute Miles at leaſt on the Weſtern Side of the ſaid River, and to be 15 *Engliſh* Statute Miles South of the Latitude of the moſt Southern Part of the ſaid City of *Philadelphia*, were, and ſhould
212 be, and ſhould, at all times for ever thereafter, be allowed and eſteemed to be, the true and exact Limits and Bounds between the ſaid Province of *Maryland*, and the ſaid three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, and between the ſaid Provinces of *Maryland* and *Penſilvania*; excepting only that, in caſe the ſaid North Line from the Tangent of the Circle of *Newcaſtle* ſhould break in upon the ſaid Circle, in ſuch caſe, ſo much of the ſaid Circle as ſhould be cut off by the ſaid Line ſhould belong to and be Part of the County of *Newcaſtle*.

213 9*thly*, That the ſaid *Charles* Lord *Baltimore* and his Heirs and Aſſigns, on his Part, and the Plaintiffs and their ſeveral and reſpective Heirs and Aſſigns, on their Parts, ſhould and would, by fit and proper Powers and Inſtruments, within 2 Calendar Months from the Day of the Date of the ſaid Articles, authorize and appoint a ſufficient Number of diſcreet and proper Perſons, not more than 7 on each Side, to be their reſpective Commiſſioners; with full Power, to the ſaid 7 Perſons, or any 3 or more of them, for the actual run-
214 ning, marking and laying out the ſaid Part of a Circle, and the ſaid before mentioned Lines; which ſaid Commiſſioners ſhould give due and proper Notice, to each other, and ſhould fix and agree upon a Time or Times to begin and proceed in the running, marking, and laying out the ſame; and the ſame ſhould be begun, at the fartheſt, ſome time in
215 the Month of *October* then next, and ſhould be proceeded in with all Fairneſs, Candour and Diſpatch, that might reaſonably be. And the ſaid Lines ſhould be mark'd out by viſible Stones, Poſts, Trees, Pillars, Buildings, Land-marks or other certain Boundaries, which might remain and continue; ſuch Boundaries to be mark'd, on one Side, with the Arms of the ſaid *Charles* Lord *Baltimore*, and, on the other Side, with the Arms of the Proprietors of *Penſilvania*; and ſuch Lines ſhould be compleatly ſo run, mark'd and laid out (as
216 far as by the ſaid Agreement was intended) on or before the 25th Day of *December* 1733; and, when ſo done, a true and exact Plan and Survey thereof, with the beſt and moſt exact and certain Deſcriptions that could poſſibly be given of the ſame, ſhould be made up and ſigned and ſealed, by the ſaid Commiſſioners on both Sides, and by their Principals, and ſhould be entred in all the publick Offices in the ſaid ſeveral Provinces and Counties.

217 Provided always, and it was thereby agreed that, in Caſe a ſufficient Quorum of the Commiſſioners, to be named on either Side, ſhould not, from time to time, according to the Appointments and Adjournments to be made for that purpoſe, attend to proceed in the marking and running out the Lines and Bounds aforeſaid, *for want whereof the ſame could not be done within the Time before limited*, then, the ſaid Agreement, and every Article and Thing therein contained, ſhould ceaſe, determine and be void, and then, and in *ſuch* Caſe, the Party or Parties whoſe Commiſſioners ſhould make *ſuch* Default, his or their Heirs, Executors or Adminiſtrators, ſhould and would forfeit and pay, to the other Party
218 or Parties, whoſe Commiſſioners ſhould attend, his or their Executors or Adminiſtrators, upon Demand, the Sum of 5000 *l.* of lawful Money of *Great Britain*.

10*thly*, The ſaid *Charles* Lord *Baltimore*, for himſelf and his Heirs, did, by the ſaid Articles of Agreement, for ever renounce, releaſe and quit claim, unto the Plaintiffs and their Heirs, all Rights, Titles, Intereſt, Powers, Prerogatives, Claims, Demands and Pretenſions to the ſaid Province of *Penſilvania*, and to the ſaid 3 lower Counties of *New-*
219 *caſtle*, *Kent* and *Suſſex*, *to be ſo bounded as aforeſaid* (Part at leaſt of the ſame 3 lower Counties being therein, ſaid to be, then known to be comprized within the Bounds mentioned in the ſaid Charter of *Maryland*) and ſhould, alſo, at the Requeſt and Coſt in the Law of the Plaintiffs and their Heirs, grant, convey and aſſure, in the moſt effectual
220 Manner, the ſaid Province of *Penſilvania*, and the ſaid 3 lower Counties, to be bounded as aforeſaid, and all his and their Right, Title, Intereſt, Powers, Claims and Demands in and to the ſaid Province of *Penſilvania*, and the ſaid 3 lower Counties, to be ſo bounded as aforeſaid, and every Part of the ſame, free of all Incumbrances by the ſaid *Charles* Lord *Baltimore* and his Anceſtors, unto the Plaintiffs and their Heirs, to hold unto the Plaintiffs and their Heirs to the only Uſe and Behoof of them and their Heirs for ever, in
221 ſuch Manner as by the Plaintiffs or their Heirs, or their Council learned in the Law, ſhould be reaſonably deviſed, adviſed and required. And on the other hand, the Plaintiffs made the like Renunciation, unto the Defendant of the ſaid Province of *Maryland*, to be ſo bounded as aforeſaid (Part whereof, when ſo bounded, being therein expreſt to be apprehended to be comprized within the Bounds mentioned in the ſaid Charter for *Penſilvania*) and covenanted to grant, convey and aſſure, in effectual Manner (and which the Plain-
222 tiffs hereby offer to do) the ſaid Province of *Maryland* to be ſo bounded as aforementioned, in the ſaid Articles of Agreement (free of all Incumbrances by the Plaintiffs Father, Brother, Nephew, and by the Plaintiffs their Heirs and Aſſigns, except as thereim mentioned) unto the ſaid Defendant and his Heirs.

And, by another Clauſe in the ſaid recited Articles of Agreement, it was covenanted and agreed that all the Parties thereto, and their Repreſentatives, ſhould, at all times thereaf-
223 ter, uſe all friendly Means and Offices, to the utmoſt of their Power, to aſſiſt and ſupport that ſame Agreement, and the ſeveral and reſpective Rights, Intereſts and Pretenſions of the Parties by virtue thereof.

And the ſaid recited Articles of Agreement, to the Effect herein before ſet forth, were, on or about the ſaid 10th Day of *May* 1732, duly ſigned, ſealed and delivered by the Defendant and by the Plaintiffs, as by one of the original Parts of the ſame in the Plaintiffs Cuſtody, ready to be produced to this Honourable Court, Relation being thereunto had, may more fully and at large appear.

That

187 " 5, The Proprietors of *Penſilvania* to quit all Pretenſions to any Land on the Southward of the Line of 15 Miles from *Philadelphia*, and to the Weſt of the North and South
" Line heretofore deſcribed, and, for the Conſiderations aforeſaid, convey to the Lord *Baltimore* all Right and Title they may have thereunto belonging." With ſome other Clauſes,
therein contained, not relating to the Bounds, but merely to the quieting the Poſſeſſors of the Lands in Diſpute; as by the Original of the Defendant's ſaid Paper or Propoſal, which
188 the Plaintiffs charge is now in the Cuſtody, Poſſeſſion or Power of the ſaid Defendant, or of ſome Sollicitor or Agent of his, and by the ſaid Copy thereof delivered, by the Defendant's Sollicitor, to the Plaintiffs, or ſome Perſon on their Behalf, Relation being thereunto had, may plainly appear.

That, in leſs than three Weeks Time after the ſaid Copy of the ſaid Defendant's Paper or Propoſal was ſo delivered over as aforeſaid, the Plaintiffs cauſed a Draught of Articles of
189 Agreement, at full Length, to be prepared, in order to be, after the ſame ſhould be ſettled, engroſſed and executed by the ſaid Parties; and the Draught of ſuch Agreement was delivered over, by the Plaintiffs Direction, to the Defendant, or his Sollicitor, upon or about the 10th Day of *Auguſt* 1731; and the ſame Draught of the ſaid Agreement at length was,
190 for very near 9 Months, namely from the ſaid 16th of *Auguſt* 1731 to the 10th Day of *May* 1732, under the conſtant and continual Examination of the Defendant himſelf, and of *Samuel Ogle* Eſq; the Defendant's Lieutenant or Deputy Governor of *Maryland*, and of Mr. *Wynne* the ſaid Defendant's Council, and of Mr. *John Sharpe* the ſaid Defendant's ſaid Sollicitor, and of Mr. *Senex* the Mathematician, ſo named as aforeſaid by the ſaid Defendant, and of many other Council, Agents and Perſons, employed by and for the ſaid Defendant.

191 And, during the Time the ſaid Draught of the Agreement was ſo under Conſideration as aforeſaid, the ſaid Defendant, or his ſaid Sollicitor, did carry the ſaid Defendant's own Map or Plan to the ſaid Mr. *Senex*, to be engraved; and he did engrave the ſame, and for which the Plaintiffs and Defendant have jointly paid the ſaid Mr. *Senex*.

And the ſaid Mr. *Senex* was deſired by the ſaid Defendant to give, and did give, his Opinion, *in Writing*, upon the Propriety and Fitneſs of the Terms and Expreſſions made uſe
192 of in the ſaid Draught of the ſaid Agreement.

And, during the long Time that the ſaid Draught of the ſaid Agreement was under ſuch Conſideration, by the ſaid Defendant and his ſeveral Agents and Friends beforementioned, the ſaid Defendant propoſed and inſiſted on *many After-thoughts*, of his own, or of his Agents or Adviſers, which he, likewiſe, inſiſted on, *tho' never before mentioned.*

193 And, amongſt many others, the ſaid Defendant inſiſted that, Whereas in his own Propoſals, and in the ſaid Draught of the Agreement, the 12 Miles Diſtance from *Newcaſtle*, and the 15 Miles South of *Philadelphia*, were only mentioned as *Miles in general*, they ſhould be expreſſed particularly, in the ſaid Articles of Agreement, to be 12 and 15 *Engliſh Statute Miles*, which the Plaintiffs agreed to, altho' they thought the ſame ought rather to have been *Geographical Miles*, which would have been more for their Benefit and Advantages.

194 And, again the ſaid Defendant inſiſted that the Heir at Law of the Plaintiffs Father (tho' the Will of the Plaintiffs Father had been proved by Witneſſes in a Court of Equity againſt the Heir at Law) and alſo, the Perſons intitled under the Will of the Plaintiffs Father to 40,000 Acres of Land in *America*, ſhould join in the ſaid Agreement, or, by ſome Indorſement, or other Inſtrument, agree to and confirm the ſame; which the Plaintiffs readily agreed they ſhould; and, accordingly, the ſaid Perſons afterwards did.

195 And, after the ſaid Draught of the Agreement had been, from the 16th of *Auguſt* 1731, to the 29th of *March* 1732, (which was above 7 whole Months) under the Conſideration of himſelf, and his Agents, as aforeſaid, the ſaid Defendant delivered, with his own Hand, unto the Plaintiffs, or their Sollicitor, a Note, of his own Hand-writing, the Purport of which he inſiſted ſhould be, likewiſe, inſerted in the ſaid Draught of the ſaid Agreement, to prohibit the People of the reſpective Provinces to carry on Commerce, into the Bays
196 of *Cheſopeak* and *Delaware*, by means of any Rivers leading from one of the Provinces aforeſaid to the other; which the Plaintiffs, tho' with a good deal of Unwillingneſs, alſo agreed to.

And, again, the Defendant, at another ſubſequent Time, inſiſted that a Clauſe ſhould be inſerted in the ſaid Draught of the Agreement, That, in caſe a ſufficient Quorum of the Commiſſioners, to be named on either Side, ſhould not, from time to time, according to the Appointments and Adjournments to be made for that Purpoſe, attend, to proceed in
197 the marking and running out the Lines and Bounds aforeſaid *(for want whereof the ſame could not be done within the Time limited)* then, the ſaid Agreement ſhould be void, and then, and in *ſuch* Caſe, the Party or Parties whoſe Commiſſioners ſhould make ſuch Default ſhould forfeit and pay, to the other Party or Parties whoſe Commiſſioners ſhould attend, upon Demand, the Sum of 5000 *l.* of lawful Money of *Great-Britain*; which the Plaintiff, likewiſe, agreed to, and, accordingly, a Clauſe or Proviſo was inſerted in the ſaid Draught for ſuch Purpoſe.

198 And many other Alterations and Amendments were made, and inſerted, by the Defendant and his Agents and Adviſers, till they had made the ſaid Draught of the ſaid Agreement entirely agreeable to the Defendant, and, when they had ſo done, the ſaid Draught was, in the Beginning of *May* 1732, re-delivered back again to the Plaintiffs Sollicitor, to
199 be engroſs'd; and ſix ſeveral Parts thereof were inſtantly engroſs'd, on Parchment; on the Side or Margin whereof the Defendant's ſaid Map or Plan was ſtamped or printed.

And all the ſaid 6 Parts of the ſame Agreement were upon, or about the 10th Day of *May* 1732, in preſence of many Witneſſes, duly ſigned, ſealed and delivered by the Defendant and by the Plaintiffs.

200 That the ſaid original Articles of Agreement were indented and bore Date on or about the ſaid 10th Day of *May* 1732, and were made between the ſaid Defendant *Charles* Baron of *Baltimore* by the Deſcription and Addition therein contained of the one Part, and the Plaintiffs by the Deſcriptions and Additions therein contained of the other Part, and recited the ſaid Letters Patent or Charter of King *Charles* the Firſt of *Maryland* to the ſaid *Cecilius* Baron of *Baltimore*, and the ſaid Letters Patent or Charter of King *Charles* the Second
201 of *Penſilvania* to the Plaintiffs ſaid late Father, and the ſaid two herein beforementioned Indentures of Feoffment from the ſaid Duke of *York* of the ſaid 3 lower Counties of *Newcaſtle*, *Kent* and *Suſſex* to the Plaintiffs ſaid Father; and alſo recited, in general, that ſeveral Diſputes and Differences had aroſe between the former Lord *Baltimore* and the ſaid *William Penn*, touching the reſpective Bounds and Limits of the ſaid Provinces of *Maryland* and *Penſilvania*, and between the ſaid Province of *Maryland* and the ſaid 3 lower Counties
202 of *Newcaſtle*, *Kent*, and *Suſſex*, but that, for the putting a final and friendly End and Accommodation to the ſaid Diſputes and Differences, the ſaid Parties to the ſaid Articles had come to the there following Agreement touching the ſame.

And the ſaid Articles did, therefore, witneſs that it was thereby mutually and reciprocally covenanted, promiſed, declared and agreed, by each and every one of the ſaid Parties thereto, for himſelf and his Heirs, Executors and Adminiſtrators, to and with all and every other of the ſame Parties thereto, and their ſeveral and reſpective Heirs, Executors, and Adminiſtrators, in manner therein after mentioned, and

203 *1ſt*, That the Draught or Plan, printed in the Margin upon that Skin of Parchment whereon the ſaid Articles were engroſſed (which contained a Map of the Peninſula, and alſo of the other Tracts of Ground therein mentioned) was a true Copy of thoſe which had been ſent over from *America* to the then preſent Parties to the ſaid Agreement by their *reſpective*
204 Agents in thoſe Parts, for the Aſſiſtance and Guidance of the ſaid Parties in the ſettling the ſaid Diſputes, and by which that preſent Agreement was to be explained and underſtood.

2dly, That there ſhould be the ſaid Circle, mentioned in the ſaid Charter for *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as was requiſite) drawn and marked out, at the 12 *Miles diſtance from the Town* of *Newcaſtle*, which 12 Miles ſhould be 12 *Engliſh* Statute Miles.

205 *3dly*, That a due Eaſt and Weſt Line ſhould be drawn, a-croſs the ſaid Peninſula, (or a-croſs ſo much of it as ſhould be requiſite) ſuch Eaſt and Weſt Line to begin, on the Eaſt Part, at the Place in the ſaid Draught or Map called Cape *Hinlopen*, which lay South of Cape *Cornelius*, upon the Eaſtern Side of the ſaid Peninſula, toward the main Ocean, and, at the Point of the ſaid Cape, and to run, towards the Weſtern Side of the ſaid Peninſula, which lay upon the *Cheſopeak* Bay; but to ſtop, in the exact middle of that Part of the ſame Peninſula, when ſo running a due Eaſt and Weſt Courſe.

206 *4thly*, That, from the Weſtward Point or End of the ſaid Eaſt and Weſt Line (which Weſtward Point or End ſhould be juſt half way a-croſs the ſaid Peninſula) a ſtrait Line ſhould run, Northwards, up the ſaid Peninſula (and above the ſaid Peninſula if it required it) till it ſhould ſo touch the Weſtern Part of the Periphery of the ſaid Circle as to make a Tangent thereto, and, there the ſaid ſtrait Line ſhould end.

207 *5thly*, That at the Northern Point or End of the ſaid ſtrait Line, a Line ſhould begin, and ſhould, from thence, run, due North, above the ſaid Peninſula; but, ſo far only, until it came into the ſame Latitude as 15 *Engliſh* Statute Miles due South of the moſt Southern Part of the City of *Philadelphia*.

6thly, That a due Eaſt and Weſt Line ſhould be run in manner following. It ſhould begin at the Northern Point or End of the ſaid due South and North Line, and ſhould from
208 thence, run, due Weſt, croſs *Saſquehannah* River, to the utmoſt Weſtern Extent of the ſaid Province of *Penſilvania* (or ſo far in Part thereof as ſhould be at preſent requiſite, in regard that as the ſame was to be a due Eaſt and Weſt Line, the beginning Part thereof might be ſufficient to continue the ſame by, when further Occaſion ſhould require, and when the Lands Weſtward in the ſaid Provinces of *Maryland* and *Penſilvania* ſhould be better ſettled, and that it would occaſion a very great Expence, and likewiſe be at preſent needleſs, to
209 run the ſame to the utmoſt Extent Weſtward of the ſaid Province of *Penſilvania*, however, the ſame ſhould, at preſent, be run croſs *Saſquehannah* River and about 25 *Engliſh* Statute Miles further, on the Weſtern Side of the ſaid River.)

7thly, That the Part of a Circle, then drawn with red Ink upon the ſaid Draught or Plan, and the red Lines, alſo drawn thereupon, were then drawn to ſerve as an Explanation to that Agreement, but not with exact Certainty, in regard the ſaid Draughts or Plans, ſo ſent over to the Parties as aforeſaid, had neither Scale or Compaſs to them.

210 *8thly*, That the firſt there abovementioned due Eaſt and Weſt Line, to run from Cape *Hinlopen* to the middle of the Peninſula, and the ſaid ſtrait Line, to run from the Weſtward Point thereof, Northwards, up the ſaid Peninſula (and above the ſaid Peninſula if it required it) till it touched or made a Tangent to the Weſtern Part of the ſaid Periphery of the ſaid 12
211 Miles Circle, and the ſaid due South and North Line, to run from ſuch Tangent till it met with the upper or more Northern Eaſt and Weſt Line, and the ſaid upper Eaſt and Weſt Line, to begin from the Northern Point or End of the ſaid South and North Line, and to run due Weſtward (at that Time) croſs *Saſquehannah* River and 25 *Engliſh* Statute Miles at leaſt on the Weſtern Side of the ſaid River, and to be 15 *Engliſh* Statute Miles South of the Latitude of the moſt Southern Part of the ſaid City of *Philadelphia*, were, and ſhould
212 be, and ſhould, at all times for ever thereafter, be allowed and eſteemed to be, the true and exact Limits and Bounds between the ſaid Province of *Maryland*, and the ſaid three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, and between the ſaid Provinces of *Maryland* and *Penſilvania*; excepting only that, in caſe the ſaid North Line from the Tangent of the Circle of *Newcaſtle* ſhould break in upon the ſaid Circle, in ſuch caſe, ſo much of the ſaid Circle as ſhould be cut off by the ſaid Line ſhould belong to and be Part of the County of *Newcaſtle*.

213 *9thly*, That the ſaid *Charles* Lord *Baltimore* and his Heirs and Aſſigns, on his Part, and the Plaintiffs and their ſeveral and reſpective Heirs and Aſſigns, on their Parts, ſhould and would, by fit and proper Powers and Inſtruments, within 2 Calendar Months from the Day of the Date of the ſaid Articles, authorize and appoint a ſufficient Number of diſcreet and proper Perſons, not more than 7 on each Side, to be their reſpective Commiſſioners; with full Power, to the ſaid 7 Perſons, or any 3 or more of them, for the actual run-
214 ning, marking and laying out the ſaid Part of a Circle, and the ſaid before mentioned Lines; which ſaid Commiſſioners ſhould give due and proper Notice, to each other, and ſhould fix and agree upon a Time or Times to begin and proceed in the running, marking, and laying out the ſame; and the ſame ſhould be begun, at the fartheſt, ſome time in
215 the Month of *October* then next, and ſhould be proceeded in with all Fairneſs, Candour and Diſpatch, that might reaſonably be. And the ſaid Lines ſhould be mark'd out by viſible Stones, Poſts, Trees, Pillars, Buildings, Land-marks or other certain Boundaries, which might remain and continue; ſuch Boundaries to be mark'd, on one Side, with the Arms of the ſaid *Charles* Lord *Baltimore*, and, on the other Side, with the Arms of the Proprietors of *Penſilvania*; and ſuch Lines ſhould be compleatly ſo run, mark'd and laid out (as
216 far as by the ſaid Agreement was intended) on or before the 25th Day of *December* 1733; and, when ſo done, a true and exact Plan and Survey thereof, with the beſt and moſt exact and certain Deſcriptions that could poſſibly be given of the ſame, ſhould be made up and ſigned and ſealed, by the ſaid Commiſſioners on both Sides, and by their Principals, and ſhould be entred in all the publick Offices in the ſaid ſeveral Provinces and Counties.

217 Provided always, and it was thereby agreed that, in Caſe a ſufficient Quorum of the Commiſſioners, to be named on either Side, ſhould not, from time to time, according to the Appointments and Adjournments to be made for that purpoſe, attend to proceed in the marking and running out the Lines and Bounds aforeſaid, *for want whereof the ſame could not be done within the Time before limited*, then, the ſaid Agreement, and every Article and Thing therein contained, ſhould ceaſe, determine and be void, and then, and in *ſuch* Caſe, the Party or Parties whoſe Commiſſioners ſhould make *ſuch* Default, his or their Heirs, Executors or Adminiſtrators, ſhould and would forfeit and pay, to the other Party
218 or Parties, whoſe Commiſſioners ſhould attend, his or their Executors or Adminiſtrators, upon Demand, the Sum of 5000 *l.* of lawful Money of *Great Britain*.

10*thly*, The ſaid *Charles* Lord *Baltimore*, for himſelf and his Heirs, did, by the ſaid Articles of Agreement, for ever renounce, releaſe and quit claim, unto the Plaintiffs and their Heirs, all Rights, Titles, Intereſt, Powers, Prerogatives, Claims, Demands and Pretenſions to the ſaid Province of *Penſilvania*, and to the ſaid 3 lower Counties of *New-*
219 *caſtle*, *Kent* and *Suſſex*, *to be ſo bounded as aforeſaid* (Part at leaſt of the ſame 3 lower Counties being therein, ſaid to be, then known to be comprized within the Bounds mentioned in the ſaid Charter of *Maryland*) and ſhould, alſo, at the Requeſt and Coſt in the Law of the Plaintiffs and their Heirs, grant, convey and aſſure, in the moſt effectual
220 Manner, the ſaid Province of *Penſilvania*, and the ſaid 3 lower Counties, to be bounded as aforeſaid, and all his and their Right, Title, Intereſt, Powers, Claims and Demands in and to the ſaid Province of *Penſilvania*, and the ſaid 3 lower Counties, to be ſo bounded as aforeſaid, and every Part of the ſame, free of all Incumbrances by the ſaid *Charles* Lord *Baltimore* and his Anceſtors, unto the Plaintiffs and their Heirs, to hold unto the Plaintiffs and their Heirs to the only Uſe and Behoof of them and their Heirs for ever, in
221 ſuch Manner as by the Plaintiffs or their Heirs, or their Council learned in the Law, ſhould be reaſonably deviſed, adviſed and required. And on the other hand, the Plaintiffs made the like Renunciation, unto the Defendant of the ſaid Province of *Maryland*, to be ſo bounded as aforeſaid (Part whereof, when ſo bounded, being therein expreſt to be apprehended to be comprized within the Bounds mentioned in the ſaid Charter for *Penſilvania*) and covenanted to grant, convey and aſſure, in effectual Manner (and which the Plain-
222 tiffs hereby offer to do) the ſaid Province of *Maryland* to be ſo bounded as aforementioned, in the ſaid Articles of Agreement (free of all Incumbrances by the Plaintiffs Father, Brother, Nephew, and by the Plaintiffs their Heirs and Aſſigns, except as thereim mentioned) unto the ſaid Defendant and his Heirs.

And, by another Clauſe in the ſaid recited Articles of Agreement, it was covenanted and agreed that all the Parties thereto, and their Repreſentatives, ſhould, at all times thereaf-
223 ter, uſe all friendly Means and Offices, to the utmoſt of their Power, to aſſiſt and ſupport that ſame Agreement, and the ſeveral and reſpective Rights, Intereſts and Pretenſions of the Parties by virtue thereof.

And the ſaid recited Articles of Agreement, to the Effect herein before ſet forth, were, on or about the ſaid 10th Day of *May* 1732, duly ſigned, ſealed and delivered by the Defendant and by the Plaintiffs, as by one of the original Parts of the ſame in the Plaintiffs Cuſtody, ready to be produced to this Honourable Court, Relation being thereunto had, may more fully and at large appear.

That

224 That the Treaty, in order to the ſaid laſt recited Articles of Agreement, was entirely begun, and carried on, at the Inſtance and Requeſt of the ſaid *Charles* Lord *Baltimore* only, and not of the Plaintiffs.

And there was not, in the ſaid whole Agreement, any one Matter, of ever ſo ſmall Value or Conſequence, which the Plaintiffs had inſiſted on, yielded or agreed to by the De-
225 fendant; nor, on the other hand, was there any one Matter or Thing, whatſoever, which the Defendant then inſiſted on, but what the Plaintiffs on their Parts did agree to by the ſaid Articles of Agreement.

And, particularly, the Plaintiffs agreed that the Defendant's general North Bounds in thoſe Parts where the ſaid 3 lower Counties did not make his North Bounds, ſhould not be confined (as by his Charter the Plaintiffs inſiſt they were) to the 39th Degree compleat, or to the Beginning of the 40th Degree, and ſhould not be confined (as by his Charter the
226 Plaintiffs inſiſt they were) to ſome Part of the Peninſula, but, ſhould run above 40 Miles higher, or more Northward, than the 39th Degree compleat; and ſhould run *quite through* the Peninſula, and *above the* Peninſula, and up near 15 Miles into the *main Continent* itſelf; all which was clearly, expreſly and indiſputably granted by the ſaid Charter for *Penſil-*
227 *vania*, and to no Part of which the Defendant (until ſuch Agreement was executed as aforeſaid) had the leaſt Shadow, or Colour, of any legal Title whatever; ſo deſirous were the Plaintiffs to begin to reap ſome ſmall Benefit from their Father's, and their own, expenſive Improvements of the ſaid lower Counties, which have, hitherto, been a very great Load and Incumbrance to, and of no clear Profit to, the Plaintiffs or their ſaid Father.

228 That, purſuant to the ſaid Articles of Agreement, the Plaintiffs on their Parts, and the Defendant on his Part, did, on or about the 12th Day of *May* 1732, execute Commiſ-
229 ſions, of exactly the like Tenor, to 7 Commiſſioners of each Side, authorizing them, or any 6, 5, 4 or 3 of them, to do every thing, relating to ſuch Lines, Limits or Bounds, which, by the therein and herein recited Articles, was agreed to be done by the Commiſſioners treated of in the ſaid Articles, in order to aſcertain, fix and perpetuate the ſame.

And the 7 Commiſſioners, ſo authorized by the Plaintiffs, were *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, *James Logan*, and *Andrew Hamilton* Eſqrs; and *James Steele* and *Robert Charles* Gent.

And the 7 Commiſſioners, ſo authorized by the Defendant, were *Samuel Ogle*, *Charles Calvert*, *Philemon Lloyd*, *Michael Howard*, *Richard Bennet*, *Benjamin Tasker*, and *Matthew Tighilman Ward* Eſqrs.

And a Clauſe was inſerted, in each of the ſaid reſpective Commiſſions, that, in Caſe of the Death, Sickneſs or Abſence from the ſaid reſpective Provinces and Counties, or
230 other unavoidable Diſability, of any of the thereby appointed Commiſſioners; it ſhould be lawful for the repective Deputy-Governors, or Commanders in Chief, in the ſaid reſpective Provinces, for the time being, to appoint ſo many new and other Commiſſioners in their ſtead and place: As by the ſaid recited reſpective Commiſſions, had the Plaintiffs the ſame to produce, Relation being thereunto had, might and would more fully appear.

231 That, in a very few Days after the Execution of the ſaid recited Articles of Agreement and reſpective Commiſſions, to wit, about the 20th Day of *May* 1732, the Plaintiff *Thomas Penn* left this Kingdom, and embarked for *Penſilvania*, where he ſoon after arrived, and has continued there to this time, and the ſaid *Thomas Penn* carried over thither the ſaid Commiſſion executed on the Plaintiffs part, and alſo one part of the ſaid original Articles of Agreement executed as aforeſaid.

232 And the Defendant, by the ſame Ship in which the ſaid *Thomas Penn* went, ſent over to his the Defendant's own Deputy-Governor at *Maryland*, the ſaid Commiſſion executed on his part, and alſo one part of the ſaid original Articles of Agreement executed as aforeſaid.

And, ſome ſhort time after, the ſaid Defendant himſelf ſailed to, and arrived at, his ſaid Province of *Maryland*.

And the Plaintiffs had all imaginable Reaſon to hope, and expect, that the ſaid Agreement, ſo entred into at the earneſt Requeſt of the ſaid Lord *Baltimore*, and entirely upon
233 his own Terms and Propoſitions, and ſo greatly for his Benefit; and for which the Plaintiffs on their part gave ſo *full*, and *valuable*, and *real* a *Conſideration*, would have been performed and carried into Execution, with ſome of that Fairneſs, Candour and Diſpatch that was ſo expreſly covenanted and agreed to be uſed therein.

But, quite contrary, the Defendant combining and confederating to and with divers Perſons, at preſent to the Plaintiffs unknown, but whoſe Names, when diſcovered, the
234 Plaintiffs pray may be made Parties to this their Bill of Complaint, with apt Words to charge them, to take to himſelf, on his own part, all the *Benefit* which, under the ſaid recited Articles, could poſſibly reſult to him, and, at the ſame time, to deprive the Plaintiffs of all Manner of Benefit which, under the ſaid recited Articles, could poſſibly reſult to them.

He the Defendant, and, by his Direction, Advice, Conſent, Privity and Knowledge, every one of his ſaid 7 Commiſſioners named in his ſaid Commiſſion (all which ſaid 7 Com-
235 miſſioners, or their near Relations, the Plaintiffs charge were poſſeſs'd of Grants from the Defendant, or his Officers under his Authority, for large Tracts of Land in general, without any Specification of the Place or Places where ſuch Tracts ſhould be ſituated or taken up, and which Grants had not been then located or ſeated, and all which ſaid 7 Com-
236 miſſioners, or their Relations, were in hopes to have laid out ſuch their Grants upon ſome improved or good Lands within the ſaid Province of *Penſilvania* and the ſaid 3 lower Counties, or ſome or one of them, but were prevented, by the Tenor of the ſaid Articles of Agreement) *have uſed all imaginable Arts* and Methods to fruſtrate and evade the ſaid Articles of Agreement, and prevent the marking out the Lines and Bounds purſuant to the ſame and the true Meaning thereof.

237 And the Plaintiffs charge, and ſo the Truth is, that what has greatly contributed to induce the Defendant to fly from the ſaid Agreement was, the Advice, Perſuaſion, Entreaty and Deſire of the Defendant's own Commiſſioners, and other Perſons poſſeſs'd of like Grants from the Defendant or his Officers of great Quantities of Land in no certain or particular Place, who writ, ſpoke, declared, promiſed or mentioned to the Defendant, and to ſome of his Officers, Agents and Servants, who acquainted him thereof, that, in Caſe
238 he the Defendant would not perform, but would break, that Agreement, they themſelves would raiſe and pay the 5000 *l.* Forfeit, or the greateſt, or ſome, part thereof; for that (as they pretended) they could not, if the Bound-Lines ſhould be run as by that Agreement was agreed, ſettle and locate their large Grants upon ſuch valuable Lands as they hoped to have done by Encroachment in Caſe no Bounds had been agreed upon; and theſe Sort of Declarations were frequently and conſtantly made by the aforementioned Perſons
239 claiming under ſuch *Maryland* Grants, to many other Perſons, as well as to the Defendant and his Officers, Agents and Servants, and were the common Diſcourſe of great Numbers of Perſons in the Province of *Maryland*, and in *Annapolis*, the chief Town or City thereof; and did come to the Hearing and Knowledge of the Defendant, who, thereupon, grew deſirous to oblige ſuch his Grantees, tho' at the Expence of the Plaintiffs.

240 And, for that purpoſe, the Defendant writ and ſpoke to, and adviſed and conſulted with, many Perſons in *Maryland*, how, and in what manner, and by what means, to avoid the running and marking out the Lines in the manner and within the time which had been ſo ſolemnly and deliberately agreed on, and yet, at the ſame time, to avoid alſo, the incurring and paying the ſaid 5000 *l.* Forfeiture in the ſaid Articles provided.

And, at length, a Method (as was apprehended) was found out for that purpoſe, namely, that the Commiſſioners of the Defendant ſhould, by all poſſible means, clog and delay
241 the ſaid Affair, and, at laſt, ſhould ſeem and pretend to differ in Judgment from the *Penſilvania* Commiſſioners, in ſome very material Point, about the running and marking out the ſaid Bounds, and ſhould tenaciouſly and reſolutely adhere to ſuch pretended Difference in Judgment, without ſuffering themſelves ever to ſeem convinced, and, thereby, ſpin and wear out the whole time mentioned in the ſaid Articles for running out the ſaid Bound-Lines.

242 And, accordingly, that Reſolution was taken, and adhered to, between the Defendant and his own Commiſſioners and other Perſons, and carried into Execution in manner herein after mentioned, in direct Contradiction to the Tenor and plain Meaning of the ſaid recited Articles of Agreement.

And the Plaintiffs charge that, in purſuance of an Appointment made by Letters, which paſt between the Plaintiffs firſt-named Commiſſioner and the firſt-named Commiſſioner
243 on the part of the Defendant, the firſt Meeting was had, by 6 of the ſaid Commiſſioners on each Side, on the 6th Day of *October* 1732, at a Place called *Newtown*, in the Province of *Maryland*, at which firſt Meeting very little or no Buſineſs was done.

And, on the 7th of the ſame *October*, the ſame 6 Commiſſioners on each Side met again, for the 2d time, at *Newtown*; and the ſaid Agreement, and the Commiſſions, on both Sides, to the Commiſſioners, were read; at which time the ſaid *Samuel Ogle*, who was and is the Lieutenant-Governor of *Maryland* under the Defendant, and the firſt-named
244 of the Defendant's 7 Commiſſioners, objected to the Validity of the Commiſſion granted by the Plaintiffs, altho' in *the very ſame Words* (ſave only the Names of the Perſons) with that to the *Maryland* Commiſſioners; becauſe the Legatees of the 40,000 Acres, deviſed by the Will of the Plaintiffs Father, who, by a meer Endorſement, had conſented to the ſaid Articles of Agreement, without being named as Parties to the ſaid Agreement, had not join'd in granting the Commiſſions to the Commiſſioners; and, altho' the Commiſſion-
245 ers on the Plaintiffs part ſhewed to the *Maryland* Commiſſioners that the Agreement *itſelf*, executed by the Defendant, expreſs'd that only the Plaintiffs ſhould grant the Commiſſions, yet, the ſaid *Maryland* Commiſſioners would not own themſelves ſatisfied, but declared, and more particularly the ſaid *Samuel Ogle* did, that he would adviſe further thereon.

And, after this Objection had been debated a conſiderable time, it was, at length, agreed by the ſaid 6 Commiſſioners on each Side, that *the firſt Part of the Work directed by*
246 *the Commiſſions to be done* was relating to the Circle about *Newcaſtle*, mentioned in the 2d Article both of the ſaid Articles of Agreement and of the ſaid Commiſſions; and the Plaintiffs Commiſſioners declared themſelves ready to proceed thereon, and acquainted the *Maryland* Commiſſioners that they the Plaintiffs Commiſſioners had brought Surveyors and Artiſts with them, for that purpoſe; but the ſaid *Samuel Ogle*, pretending that the principal Artiſt, on whom he depended, was ſick, deſired they might not proceed further,
247 at that time, but that, as the *Maryland* Commiſſioners ſhould be employed in the publick Buſineſs of their Province, there ſhould be no further Meeting until the 30th of that Month of *October*, the Plaintiffs Commiſſioners agreed (tho' unwillingly) to meet on that Day, and not before.

But the Plaintiffs ſaid Commiſſioners inſiſted that, before they broke up, a Minute ſhould be made, of the then preſent Meeting and Adjournment, and that Clerks ſhould be appointed, to take Minutes of their whole Proceedings; and the ſaid *Samuel Ogle*, and ſome others of the *Maryland* Commiſſioners, oppoſed theſe fair Propoſals, on pretence that,
248 as no Directions were given in the Commiſſions to the ſaid Commiſſioners for the Employment of Clerks, he cou'd not ſee what power they had to appoint any?

And, notwithſtanding the Plaintiffs Commiſſioners ſtrongly urged the Uſage and Practice, in executing all Commiſſions, and the Neceſſity of ſuch a Method, to avoid Irregularity and Confuſion, and to enable the Commiſſioners to give an impartial Account of their Proceedings, the ſaid *Maryland* Commiſſioners perſiſted in their Refuſal.

249 And then the Plaintiffs Commiſſioners deſired that a Commiſſioner on each ſide might be appointed, to take the Minutes, and to interchange them; and this alſo, was objected to by the ſaid *Maryland* Commiſſioners; but the Plaintiffs Commiſſioners inſiſting thereon, and that ſome Notice of the then preſent Meeting, and of their Adjournment, ſhould be taken in Writing, the *Maryland* Commiſſioners did, at length, agree, that a *ſhort* Memorandum thereof ſhould be made, and one Commiſſioner on each ſide were directed to
250 prepare it; which being done, and 2 Copies thereof made, the Plaintiffs Commiſſioners inſiſted that the ſaid Memorandum ſhould be *ſigned* by the Commiſſioners, or, at leaſt by *one* of the Commiſſioners on each ſide; which the ſaid *Maryland* Commiſſioners refuſed to conſent to; and all that the Plaintiffs Commiſſioners could obtain from them was, that a Copy of ſuch Memorandum, *unſigned*, ſhould be left with the Commiſſioners on each ſide, and which contained, only, a Note of the Commiſſioners Meeting (and the Names of them) on the 6th and 7th of *October* 1732, and reading the Articles of Agreement and Commiſſions, and adjourning to meet at the Town of *Newcaſtle* on the 30th of *Octo-*
251 *ber* then Inſtant, without further Notice, *in order to proceed to mark out the Circle in the ſaid Agreement mentioned*.

And, purſuant to that Adjournment, a Quorum of the Plaintiffs Commiſſioners, and likewiſe a Quorum of the Defendant's Commiſſioners met, at *Newcaſtle* aforeſaid, on *Mon-*
day the 30th of *October* 1732, for the third time (and continued there together till *Thurſday* the 2d of *November* then next) in order to proceed (as the Plaintiffs well hoped) to
252 mark out the Circle mentioned in the ſaid Agreement; but the ſaid *Samuel Ogle* opened the Conference, and as in the 2d Article of the ſaid Agreement the Circle was ſaid to be the Circle mentioned in the Charter for *Penſilvania* and the Deed of Feoffment from the Duke of *York*, he inſiſted it was neceſſary they ſhould ſee that Charter and Deed of Feoffment; and this, as the Plaintiffs charge, in hopes that the ſame had been in *Great Britain*, and could not have been produced, but that the whole Winter, when the
253 Leaves were off the Trees and the Work might be beſt done, might be ſpent in ſending for the ſame; and the Plaintiffs Commiſſioners ſhewed that the ſaid Agreement recited the neceſſary Parts of the ſaid Charter and Deed, but the Defendant's Commiſſioners inſiſted on what they had ſo deſired; whereupon the Plaintiffs Commiſſioners yielded to ſend up to *Philadelphia* for the Charter of *Penſilvania* and for an Exemplification of the Deed of Feoffment from the Records of *New-York*.

254 And, at a 4th Meeting of Quorums of the ſaid Commiſſioners on each ſide, at *Newcaſtle*, on the 31ſt of *October* 1732, in the Morning, the Plaintiffs Commiſſioners produced, to the ſaid *Maryland* Commiſſioners, the ſaid Deed of Charter, and Exemplification of the ſaid Deed of Feoffment, which were compared with the Recitals in the ſaid Agreement, and found, by the *Maryland* Commiſſioners, to agree *exactly* therewith; who then inſiſted on Copies of the deſcriptive Parts therein, which were drawn out, and delivered to
255 them, and certified to be true Copies under the Hands of 2 of the Plaintiffs Commiſſioners.

And, then, it was propoſed that the Commiſſioners ſhould agree on a Place for beginning to run the 12 Miles diſtance, but, the *Maryland* Commiſſioners alledging they muſt *further* conſider it, the Buſineſs was adjourned till 3 in the Afternoon.

And, accordingly, a 5th Meeting, by Quorums of the ſaid reſpective Commiſſioners, was had, that ſame 31ſt of *October* 1732 in the Afternoon; when the *Maryland* Commiſſion-
256 ers declared they queſtioned whether, by their Commiſſion, they had power to run the deſcribed Circle? for, as there could be no Circle without a Centre, that Centre muſt be firſt had, but that it was no where directed, by the Articles or Commiſſion; and they conceived they had no power to make one.

To which the Plaintiffs Commiſſioners anſwered, that the Commiſſioners being impowered and required *to execute the Agreement*, they were, conſequently, impowered to do all
257 things neceſſary to the performance of it; and that the former Adjournment, from *Newtown* to *Newcaſtle*, was in order to proceed *to mark out the Circle*; and the Articles enjoined the Buſineſs to be begun in the Month of *October*, at fartheſt, and that they were then in the Afternoon of the *laſt Day* of *October*, and yet, nothing was done to any effect.

But the *Maryland* Commiſſioners declared they had *begun*, but that they were under a difficulty how to proceed, and which appeared ſuch, to them, as that they muſt further adviſe on it.

258 And the Plaintiffs Commiſſioners declared themſelves fully impowered to do all neceſſary things to the full Execution of their Commiſſion, and deſired, if the *Maryland* Commiſſioners muſt conſider, that, to ſave time, the Surveyors might be ſent to meaſure the Town.

But the Commiſſioners of *Maryland* did not conſent to that, but, inſtead thereof, propoſed that the Commiſſioners ſhould walk about the Town, and view it; which was done, and an Adjournment made to the next morning.

And,

224 That the Treaty, in order to the ſaid laſt recited Articles of Agreement, was entirely begun, and carried on, at the Inſtance and Requeſt of the ſaid *Charles* Lord *Baltimore* only, and not of the Plaintiffs.

And there was not, in the ſaid whole Agreement, any one Matter, of ever ſo ſmall Value or Conſequence, which the Plaintiffs had inſiſted on, yielded or agreed to by the De-
225 fendant; nor, on the other hand, was there any one Matter or Thing, whatſoever, which the Defendant then inſiſted on, but what the Plaintiffs on their Parts did agree to by the ſaid Articles of Agreement.

And, particularly, the Plaintiffs agreed that the Defendant's general North Bounds in thoſe Parts where the ſaid 3 lower Counties did not make his North Bounds, ſhould not be confined (as by his Charter the Plaintiffs inſiſt they were) to the 39th Degree compleat, or to the Beginning of the 40th Degree, and ſhould not be confined (as by his Charter the
226 Plaintiffs inſiſt they were) to ſome Part of the Peninſula, but, ſhould run above 40 Miles higher, or more Northward, than the 39th Degree compleat; and ſhould run *quite through* the Peninſula, and *above the* Peninſula, and up near 15 Miles into the *main Continent* itſelf; all which was clearly, expreſly and indiſputably granted by the ſaid Charter for *Penſilvania*, and to no Part of which the Defendant (until ſuch Agreement was executed as aforeſaid) had the leaſt Shadow, or Colour, of any legal Title whatever; ſo deſirous were
227 the Plaintiffs to begin to reap ſome ſmall Benefit from their Father's, and their own, expenſive Improvements of the ſaid lower Counties, which have, hitherto, been a very great Load and Incumbrance to, and of no clear Profit to, the Plaintiffs or their ſaid Father.

228 That, purſuant to the ſaid Articles of Agreement, the Plaintiffs on their Parts, and the Defendant on his Part, did, on or about the 12th Day of *May* 1732, execute Commiſſions, of exactly the like Tenor, to 7 Commiſſioners of each Side, authorizing them, or any 6, 5, 4 or 3 of them, to do every thing, relating to ſuch Lines, Limits or Bounds,
229 which, by the therein and herein recited Articles, was agreed to be done by the Commiſſioners treated of in the ſaid Articles, in order to aſcertain, fix and perpetuate the ſame.

And the 7 Commiſſioners, ſo authorized by the Plaintiffs, were *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, *James Logan*, and *Andrew Hamilton* Eſqrs; and *James Steele* and *Robert Charles* Gent.

And the 7 Commiſſioners, ſo authorized by the Defendant, were *Samuel Ogle*, *Charles Calvert*, *Philemon Lloyd*, *Michael Howard*, *Richard Bennet*, *Benjamin Tasker*, and *Matthew Tighilman Ward* Eſqrs.

And a Clauſe was inſerted, in each of the ſaid reſpective Commiſſions, that, in Caſe of the Death, Sickneſs or Abſence from the ſaid reſpective Provinces and Counties, or
230 other unavoidable Diſability, of any of the thereby appointed Commiſſioners; it ſhould be lawful for the repective Deputy-Governors, or Commanders in Chief, in the ſaid reſpective Provinces, for the time being, to appoint ſo many new and other Commiſſioners in their ſtead and place: As by the ſaid recited reſpective Commiſſions, had the Plaintiffs the ſame to produce, Relation being thereunto had, might and would more fully appear.

231 That, in a very few Days after the Execution of the ſaid recited Articles of Agreement and reſpective Commiſſions, to wit, about the 20th Day of *May* 1732, the Plaintiff *Thomas Penn* left this Kingdom, and embarked for *Penſilvania*, where he ſoon after arrived, and has continued there to this time, and the ſaid *Thomas Penn* carried over thither the ſaid Commiſſion executed on the Plaintiffs part, and alſo one part of the ſaid original Articles of Agreement executed as aforeſaid.

232 And the Defendant, by the ſame Ship in which the ſaid *Thomas Penn* went, ſent over to his the Defendant's own Deputy-Governor at *Maryland*, the ſaid Commiſſion executed on his part, and alſo one part of the ſaid original Articles of Agreement executed as aforeſaid.

And, ſome ſhort time after, the ſaid Defendant himſelf ſailed to, and arrived at, his ſaid Province of *Maryland*.

And the Plaintiffs had all imaginable Reaſon to hope, and expect, that the ſaid Agreement, ſo entred into at the earneſt Requeſt of the ſaid Lord *Baltimore*, and entirely upon
233 his own Terms and Propoſitions, and ſo greatly for his Benefit; and for which the Plaintiffs on their part gave ſo *full*, and *valuable*, and *real* a *Conſideration*, would have been performed and carried into Execution, with ſome of that Fairneſs, Candour and Diſpatch that was ſo expreſly covenanted and agreed to be uſed therein.

But, quite contrary, the Defendant combining and confederating to and with divers Perſons, at preſent to the Plaintiffs unknown, but whoſe Names, when diſcovered, the
234 Plaintiffs pray may be made Parties to this their Bill of Complaint, with apt Words to charge them, to take to himſelf, on his own part, all the *Benefit* which, under the ſaid recited Articles, could poſſibly reſult to him, and, at the ſame time, to deprive the Plaintiffs of all Manner of Benefit which, under the ſaid recited Articles, could poſſibly reſult to them.

He the Defendant, and, by his Direction, Advice, Conſent, Privity and Knowledge, every one of his ſaid 7 Commiſſioners named in his ſaid Commiſſion (all which ſaid 7 Com-
235 miſſioners, or their near Relations, the Plaintiffs charge were poſſeſs'd of Grants from the Defendant, or his Officers under his Authority, for large Tracts of Land in general, without any Specification of the Place or Places where ſuch Tracts ſhould be ſituated or taken up, and which Grants had not been then located or ſeated, and all which ſaid 7 Com-
236 miſſioners, or their Relations, were in hopes to have laid out ſuch their Grants upon ſome improved or good Lands within the ſaid Province of *Penſilvania* and the ſaid 3 lower Counties, or ſome or one of them, but were prevented, by the Tenor of the ſaid Articles of Agreement) *have uſed all imaginable Arts* and Methods to fruſtrate and evade the ſaid Articles of Agreement, and prevent the marking out the Lines and Bounds purſuant to the ſame and the true Meaning thereof.

237 And the Plaintiffs charge, and ſo the Truth is, that what has greatly contributed to induce the Defendant to fly from the ſaid Agreement was, the Advice, Perſuaſion, Entreaty and Deſire of the Defendant's own Commiſſioners, and other Perſons poſſeſs'd of like Grants from the Defendant or his Officers of great Quantities of Land in no certain or particular Place, who writ, ſpoke, declared, promiſed or mentioned to the Defendant, and to ſome of his Officers, Agents and Servants, who acquainted him thereof, that, in Caſe
238 he the Defendant would not perform, but would break, that Agreement, they themſelves would raiſe and pay the 5000 *l.* Forfeit, or the greateſt, or ſome, part thereof; for that (as they pretended) they could not, if the Bound-Lines ſhould be run as by that Agreement was agreed, ſettle and locate their large Grants upon ſuch valuable Lands as they hoped to have done by Encroachment in Caſe no Bounds had been agreed upon; and theſe Sort of Declarations were frequently and conſtantly made by the aforementioned Perſons
239 claiming under ſuch *Maryland* Grants, to many other Perſons, as well as to the Defendant and his Officers, Agents and Servants, and were the common Diſcourſe of great Numbers of Perſons in the Province of *Maryland*, and in *Annapolis*, the chief Town or City thereof; and did come to the Hearing and Knowledge of the Defendant, who, thereupon, grew deſirous to oblige ſuch his Grantees, tho' at the Expence of the Plaintiffs.

240 And, for that purpoſe, the Defendant writ and ſpoke to, and adviſed and conſulted with, many Perſons in *Maryland*, how, and in what manner, and by what means, to avoid the running and marking out the Lines in the manner and within the time which had been ſo ſolemnly and deliberately agreed on, and yet, at the ſame time, to avoid alſo, the incurring and paying the ſaid 5000 *l.* Forfeiture in the ſaid Articles provided.

And, at length, a Method (as was apprehended) was found out for that purpoſe, namely, that the Commiſſioners of the Defendant ſhould, by all poſſible means, clog and delay
241 the ſaid Affair, and, at laſt, ſhould ſeem and pretend to differ in Judgment from the *Penſilvania* Commiſſioners, in ſome very material Point, about the running and marking out the ſaid Bounds, and ſhould tenaciouſly and reſolutely adhere to ſuch pretended Difference in Judgment, without ſuffering themſelves ever to ſeem convinced, and, thereby, ſpin and wear out the whole time mentioned in the ſaid Articles for running out the ſaid Bound-Lines.

242 And, accordingly, that Reſolution was taken, and adhered to, between the Defendant and his own Commiſſioners and other Perſons, and carried into Execution in manner herein after mentioned, in direct Contradiction to the Tenor and plain Meaning of the ſaid recited Articles of Agreement.

And the Plaintiffs charge that, in purſuance of an Appointment made by Letters, which paſt between the Plaintiffs firſt-named Commiſſioner and the firſt-named Commiſſioner
243 on the part of the Defendant, the firſt Meeting was had, by 6 of the ſaid Commiſſioners on each Side, on the 6th Day of *October* 1732, at a Place called *Newtown*, in the Province of *Maryland*, at which firſt Meeting very little or no Buſineſs was done.

And, on the 7th of the ſame *October*, the ſame 6 Commiſſioners on each Side met again, for the 2d time, at *Newtown*; and the ſaid Agreement, and the Commiſſions, on both Sides, to the Commiſſioners, were read; at which time the ſaid *Samuel Ogle*, who was and is the Lieutenant-Governor of *Maryland* under the Defendant, and the firſt-named
244 of the Defendant's 7 Commiſſioners, objected to the Validity of the Commiſſion granted by the Plaintiffs, altho' in *the very ſame Words* (ſave only the Names of the Perſons) with that to the *Maryland* Commiſſioners; becauſe the Legatees of the 40,000 Acres, deviſed by the Will of the Plaintiffs Father, who, by a meer Endorſement, had conſented to the ſaid Articles of Agreement, without being named as Parties to the ſaid Agreement, had not join'd in granting the Commiſſions to the Commiſſioners; and, altho' the Commiſſion-
245 ers on the Plaintiffs part ſhewed to the *Maryland* Commiſſioners that the Agreement *itſelf*, executed by the Defendant, expreſs'd that only the Plaintiffs ſhould grant the Commiſſions, yet, the ſaid *Maryland* Commiſſioners would not own themſelves ſatisfied, but declared, and more particularly the ſaid *Samuel Ogle* did, that he would adviſe further thereon.

And, after this Objection had been debated a conſiderable time, it was, at length, agreed by the ſaid 6 Commiſſioners on each Side, that *the firſt Part of the Work directed by*
246 *the Commiſſions to be done* was relating to the Circle about *Newcaſtle*, mentioned in the 2d Article both of the ſaid Articles of Agreement and of the ſaid Commiſſions; and the Plaintiffs Commiſſioners declared themſelves ready to proceed thereon, and acquainted the *Maryland* Commiſſioners that they the Plaintiffs Commiſſioners had brought Surveyors and Artiſts with them, for that purpoſe; but the ſaid *Samuel Ogle*, pretending that the principal Artiſt, on whom he depended, was ſick, deſired they might not proceed further,
247 at that time, but that, as the *Maryland* Commiſſioners ſhould be employed in the publick Buſineſs of their Province, there ſhould be no further Meeting until the 30th of that Month of *October*, the Plaintiffs Commiſſioners agreed (tho' unwillingly) to meet on that Day, and not before.

But the Plaintiffs ſaid Commiſſioners inſiſted that, before they broke up, a Minute ſhould be made, of the then preſent Meeting and Adjournment, and that Clerks ſhould be ap-
248 pointed, to take Minutes of their whole Proceedings; and the ſaid *Samuel Ogle*, and ſome others of the *Maryland* Commiſſioners, oppoſed theſe fair Propoſals, on pretence that, as no Directions were given in the Commiſſions to the ſaid Commiſſioners for the Employment of Clerks, he cou'd not ſee what power they had to appoint any?

And, notwithſtanding the Plaintiffs Commiſſioners ſtrongly urged the Uſage and Practice, in executing all Commiſſions, and the Neceſſity of ſuch a Method, to avoid Irregularity and Confuſion, and to enable the Commiſſioners to give an impartial Account of their Proceedings, the ſaid *Maryland* Commiſſioners perſiſted in their Refuſal.

249 And then the Plaintiffs Commiſſioners deſired that a Commiſſioner on each ſide might be appointed, to take the Minutes, and to interchange them; and this alſo, was objected to by the ſaid *Maryland* Commiſſioners; but the Plaintiffs Commiſſioners inſiſting thereon, and that ſome Notice of the then preſent Meeting, and of their Adjournment, ſhould be taken in Writing, the *Maryland* Commiſſioners did, at length, agree, that a *ſhort* Memorandum thereof ſhould be made, and one Commiſſioner on each ſide were directed to
250 prepare it; which being done, and 2 Copies thereof made, the Plaintiffs Commiſſioners inſiſted that the ſaid Memorandum ſhould be *ſigned* by the Commiſſioners, or, at leaſt by *one* of the Commiſſioners on each ſide; which the ſaid *Maryland* Commiſſioners refuſed to conſent to; and all that the Plaintiffs Commiſſioners could obtain from them was, that a Copy of ſuch Memorandum, *unſigned*, ſhould be left with the Commiſſioners on each ſide, and which contained, only, a Note of the Commiſſioners Meeting (and the Names of them) on the 6th and 7th of *October* 1732, and reading the Articles of Agreement and Commiſſions, and adjourning to meet at the Town of *Newcaſtle* on the 30th of *Oc-*
251 *tober* then Inſtant, without further Notice, *in order to proceed to mark out the Circle in the ſaid Agreement mentioned.*

And, purſuant to that Adjournment, a Quorum of the Plaintiffs Commiſſioners, and likewiſe a Quorum of the Defendant's Commiſſioners met, at *Newcaſtle* aforeſaid, on *Mon-*
day the 30th of *October* 1732, for the third time (and continued there together till *Thurſday* the 2d of *November* then next) in order to proceed (as the Plaintiffs well hoped) to
252 mark out the Circle mentioned in the ſaid Agreement; but the ſaid *Samuel Ogle* opened the Conference, and as in the 2d Article of the ſaid Agreement the Circle was ſaid to be the Circle mentioned in the Charter for *Penſilvania* and the Deed of Feoffment from the Duke of *York*, he inſiſted it was neceſſary they ſhould ſee that Charter and Deed of Feoffment; and this, as the Plaintiffs charge, in hopes that the ſame had been in *Great Britain*, and could not have been produced, but that the whole Winter, when the
253 Leaves were off the Trees and the Work might be beſt done, might be ſpent in ſending for the ſame; and the Plaintiffs Commiſſioners ſhewed that the ſaid Agreement recited the neceſſary Parts of the ſaid Charter and Deed, but the Defendant's Commiſſioners inſiſted on what they had ſo deſired; whereupon the Plaintiffs Commiſſioners yielded to ſend up to *Philadelphia* for the Charter of *Penſilvania* and for an Exemplification of the Deed of Feoffment from the Records of *New-York*.

254 And, at a 4th Meeting of Quorums of the ſaid Commiſſioners on each ſide, at *Newcaſtle*, on the 31ſt of *October* 1732, in the Morning, the Plaintiffs Commiſſioners produced, to the ſaid *Maryland* Commiſſioners, the ſaid Deed of Charter, and Exemplification of the ſaid Deed of Feoffment, which were compared with the Recitals in the ſaid Agreement, and found, by the *Maryland* Commiſſioners, to agree *exactly* therewith; who then inſiſted on Copies of the deſcriptive Parts therein, which were drawn out, and delivered to
255 them, and certified to be true Copies under the Hands of 2 of the Plaintiffs Commiſſioners.

And, then, it was propoſed that the Commiſſioners ſhould agree on a Place for beginning to run the 12 Miles diſtance, but, the *Maryland* Commiſſioners alledging they muſt *further* conſider it, the Buſineſs was adjourned till 3 in the Afternoon.

And, accordingly, a 5th Meeting, by Quorums of the ſaid reſpective Commiſſioners, was had, that ſame 31ſt of *October* 1732 in the Afternoon; when the *Maryland* Commiſſion-
256 ers declared they queſtioned whether, by their Commiſſion, they had power to run the deſcribed Circle? for, as there could be no Circle without a Centre, that Centre muſt be firſt had, but that it was no where directed, by the Articles or Commiſſion; and they conceived they had no power to make one.

To which the Plaintiffs Commiſſioners anſwered, that the Commiſſioners being impowered and required *to execute the Agreement*, they were, conſequently, impowered to do all
257 things neceſſary to the performance of it; and that the former Adjournment, from *Newtown* to *Newcaſtle*, was in order to proceed *to mark out the Circle*; and the Articles enjoined the Buſineſs to be begun in the Month of *October*, at fartheſt, and that they were then in the Afternoon of the *laſt Day* of *October*, and yet, nothing was done to any effect.

But the *Maryland* Commiſſioners declared they had *begun*, but that they were under a difficulty how to proceed, and which appeared ſuch, to them, as that they muſt further adviſe on it.

258 And the Plaintiffs Commiſſioners declared themſelves fully impowered to do all neceſſary things to the full Execution of their Commiſſion, and deſired, if the *Maryland* Commiſſioners muſt conſider, that, to ſave time, the Surveyors might be ſent to meaſure the Town.

But the Commiſſioners of *Maryland* did not conſent to that, but, inſtead thereof, propoſed that the Commiſſioners ſhould walk about the Town, and view it; which was done, and an Adjournment made to the next morning.

And,

259 And, in the morning on the 1ſt of *November* 1732, a 6th Meeting was had, between Quorums of the ſaid reſpective Commiſſioners; when the ſaid *Samuel Ogle* declared that the *Maryland* Commiſſioners had adviſed, both with Lawyers and Mathematicians, who were ſatisfied that, as the Centre for the Circle was not directed by the Articles or Commiſſions, they, the ſaid *Maryland* Commiſſioners, had no power to make one; but that, as the Defendant was expected to arrive in *Maryland*, his ſaid Commiſſioners thought it proper that they ſhould apply to him, and if he would direct them to find a Centre, they would obey.

260 And the Plaintiffs Commiſſioners obſerved, thereon, that the Proprietors, on both parts, had abſolutely concluded an Agreement, in full and clear Terms; that they had given full Powers to their Commiſſioners, on both ſides, to execute that Agreement; and the better to enable them ſo to do, a printed Direction of the Work was annexed, in the Margin, both of the Articles and of the Commiſſions to the reſpective Commiſſioners, which was to be explanative and directive in caſe of any Difficulty; that the Town of *Newcaſtle*

261 was fairly mark'd out in that Draught, *with the Central Point in the middle of it*, on which, the Circle in the Draught was drawn, and that it was eaſy to find the Centre, as it was there pointed out.

But the ſaid *Samuel Ogle* ſtill continued to inſiſt that he, and his Fellow-Commiſſioners, had no power to fix any Centre; wherefore, they muſt firſt take the *further Direction*

262 of their Lord-Proprietor; and, for that end, he deſired that the Commiſſioners might adjourn, that they might have an Opportunity ſo to do.

That, in the Afternoon of the ſame 1ſt of *November*, Quorums of the ſame reſpective Commiſſioners had a 7th Meeting, at which the Plaintiffs Commiſſioners declared that the Propoſal of an Adjournment was unexpected; and deſired, that Minutes might be taken of what had paſt; but the Commiſſioners on the part of *Maryland* inſiſted that *all Minutes were unneceſſary*, further than to enter the Meetings and Adjournments; and the Plaintiffs Commiſſioners perſiſted to have Minutes taken, but in vain.

263 And the *Maryland* Commiſſioners then propoſed to adjourn for *three whole Months, from that Day*, the 1ſt of *November*, to the 1ſt of *February* following, then to meet at *Newcaſtle*; which the Plaintiffs Commiſſioners took time to conſider of till the next morning.

That, at an 8th Meeting, between Quorums of the ſaid reſpective Commiſſioners, upon the 2d of *November*, the Plaintiffs Commiſſioners read over, and delivered, to thoſe of the Defendant, an Anſwer, in Writing, to their Propoſal of ſuch an Adjournment; wherein the Plaintiffs Commiſſioners inſiſted on their own full Power to execute the Articles,

264 but declared expreſly that, as the Reaſon aſſigned for Adjournment was the general Expectation of the Defendant's Arrival in ſome ſhort time in *Maryland*, whom his own Commiſſioners were deſirous further to conſult, the Plaintiffs Commiſſioners had ſo great a Regard for his Lordſhip, and ſo great an Eſteem of his Honour, that, *on that Conſideration alone*, they agreed to the Adjournment propoſed, namely, the 1ſt of *February* enſuing, then to meet at the Town of *Newcaſtle*.

265 And, before the Commiſſioners then parted, the Plaintiffs Commiſſioners produced, and read, to the Defendant's Commiſſioners, the Minutes which they had taken and kept, and aſk'd the Defendant's Commiſſioners, after thoſe Minutes had been read, if they had any Objection to the Truth of thoſe Minutes? In anſwer whereto the ſaid *Samuel Ogle* ſaid, he had nothing to ſay to any Minutes the Plaintiffs Commiſſioners ſhould take.

And, then, the Defendant's Commiſſioners read a very ſhort Minute they had prepared, to the Effect following, that, in purſuance to the former Adjournment, the Commiſ-

266 ſioners had met at *Newcaſtle*, to run the Circle, and that, Difficulties having ariſen touching the ſame, they had adjourned to the 1ſt of *February*.

Which ſhort Minute was objected to by the Plaintiffs Commiſſioners, as neither ſpecifying what the Difficulties were, nor, on whoſe part, they were ſtarted.

And, then, the ſaid *Samuel Ogle* produced a Paper of Notes, as taken by himſelf; which being read it was found to contain a Note as if the Plaintiffs Commiſſioners had argued

267 that the Charter and Deed for *Penſilvania* and *Newcaſtle* reſpectively, being recited in the Agreement, the Proprietors on both parts were bound by the ſaid Recitals, whether true or falſe; and the ſaid *Samuel Ogle* ask'd, What the Gentlemen of *Penſilvania* could ſay to thoſe Notes of his, containing as aforeſaid?

Whereto the Plaintiffs Commiſſioners inſiſted (as the Truth was and is) that *no ſuch Words* had ever been uſed by any of them.

268 And the ſaid *Samuel Ogle* replied that, tho' no ſuch Words might have been uſed, yet (as he apprehended) they were conſequential to what had been ſaid; and then put up his Paper, without offering any other Minute, or any Amendment to that which he had ſo produced, on the Objection made by the Plaintiffs Commiſſioners, and allowed by himſelf.

That, very ſoon after the ſaid 2d of *November* 1732, to wit, about the of the ſame Month, the Defendant did arrive in *Maryland*, and continued there for 5 or 6 Months together.

269 During which Time, the Defendant did contrive, to and with the ſaid Commiſſioners and others to the Plaintiffs unknown, how to evade, and avoid carrying the ſaid Articles into Execution; and many Conferences were had, by the Defendant, to and with ſundry of his ſaid Commiſſioners, and others, in order to that end; and to conſider, likewiſe, how to avoid forfeiting the 5000 *l.* thereon; and many Propoſals and Hints, for that purpoſe, were, during the Defendant's Stay in *Maryland*, and before his Arrival there, made

270 to him, by his ſaid Commiſſioners and ſeveral other Perſons; and Encouragements and Advantages were offered or promiſed, or ſtated or pretended to be ſo, to the Defendant, by every one of his ſaid Commiſſioners, and by many other Perſons, if he would conſent to defeat the Execution of the ſaid Articles; which he did, at laſt, conſent to, and ordered, adviſed, directed and intimated to his Commiſſioners, or ſome of them, that they ſhould do all in their power to avoid executing the ſaid Articles.

271 That, after the Defendant's ſaid Arrival in *Maryland*, and that his Commiſſioners had had Opportunities of conſulting him, and they or ſome of them had actually conſulted him, touching the pretended Difficulties which they had ſtarted in the Months of *October* and *November* before, Quorums of his Commiſſioners and of the Plaintiffs Commiſſioners did

272 meet, for the 9th time, purſuant to the laſt Adjournment, at *Newcaſtle*, upon the 1ſt of *February* 1732, and appointed to enter on the Buſineſs next Morning.

And Quorums of the ſame Commiſſioners met, for a 10th time, at the Court-Houſe of *Newcaſtle*, upon the 2d of the ſaid Month of *February*; when the ſaid *Samuel Ogle* declared that the Buſineſs before the Commiſſioners was the Circle of 12 Miles about *Newcaſtle*, and that he had, at the former Meeting, offered ſome Arguments, to ſhew that no Centre

273 being fixed, the Commiſſioners, on either ſide, had no power to make one, and would be glad to know what the Plaintiffs Commiſſioners would ſay to that Point.

And the Plaintiffs Commiſſioners, thereupon, put him in mind that, at the former Meeting, they had fully anſwered that Objection, and had conſented to the *long Adjournment* he propoſed, *for no other Reaſon* than to give the Commiſſioners for *Maryland* an Opportunity (they appeared very deſirous of) to conſult their Proprietor; who being arrived, it might reaſonably be hoped that his Commiſſioners were come fully inſtructed as to the fixing a Centre.

274 Whereupon, that ſame *Samuel Ogle*, who had, ſo often before, inſiſted that the Defendant's Commiſſioners had *not* power ſo to do, and, for that very Reaſon had deſired, and had, ſo long an Adjournment, during the Winter, when the Leaves were off the Trees, and the Buſineſs beſt to be done, declared *quite the reverſe*, that the Defendant, having fully delegated his Power to his Commiſſioners, had left it to them to execute the Agreement, in ſuch manner as they ſhould contrive themſelves by their Commiſſion to be duly warranted to do, and that his Lordſhip would not interfere therein.

275 Which, if true, as pretended by the ſaid *Samuel Ogle*, was either a wilful Refuſal on the part of the Defendant's Commiſſioners to fix the ſaid Centre and Circle, if they had power; or, if they had not power ſo to do, was a wilful Breach of the ſaid Articles on the part of the Defendant himſelf, who, according to the Tenor thereof, ought to have given his Commiſſioners power ſo to do, and ought to have interfered therein.

276 And the Plaintiffs Commiſſioners, thereupon, declared to the ſaid *Samuel Ogle*, that this Declaration of his was no other than what might have been expected, from the former Conduct of the *Maryland* Commiſſioners; but that the Plaintiffs Commiſſioners were, ſtill, of their former Opinion, that full Power was given, to the Commiſſioners, to fix a Centre; and, if the Gentlemen of *Maryland* thought otherwiſe, it would be proper they ſhould declare themſelves.

And the Plaintiffs Commiſſioners preſſing them very much to declare, explicitely, the ſaid *Samuel Ogle* ſaid that, tho' they (meaning the *Maryland* Commiſſioners) were not yet

277 fully ſatisfied they had any power by their Commiſſion to fix a Centre, yet, he wou'd wave that Point for the preſent, and talk a little about the Circle; and aſk'd the Plaintiffs Commiſſioners what they apprehended to be the Meaning of *the Circle of 12 Miles about Newcaſtle?* and ſaid that, for his part, he thought it plain, from the Words of the *Feoffment* to

278 Mr. *Penn*, that the ſaid Circle could not be conſtrued to mean a Diameter of 24 Miles; that he was pretty much a Stranger to things of that kind, but could not believe it to mean other than a *Circumference of 12 Miles*, or, at moſt, a Diameter of 12 Miles.

Whereto the Plaintiffs Commiſſioners anſwered, that ſuch an Interpretation could never be admitted; ſince, as well from the Grant of *Penſilvania*, and the ſaid Deed of Feoffment, as from the Conſtruction of the Proprietors of *Penſilvania* and *Maryland* thereof, it was abundantly evident, that the Circle was to be 12 Miles *diſtant from the Town of* Newcaſtle.

279 But the Commiſſioners of *Maryland* replied, that the *Words in the Agreement* and Commiſſions, relating to the Circle, being either ſuperfluous or contradictory to thoſe deſcribing it in the Deed of Feoffment, were in themſelves *void*.

Whereto the Plaintiffs Commiſſioners anſwered, that, as the Plaintiffs had appointed them to *execute* the Articles agreed on between the Proprietors, which the Plaintiffs Commiſſioners conceived were directed in ſuch clear and expreſs Terms as left no room for Diſpute, ſo the Plaintiffs ſaid Commiſſioners were then fully prepared to do what their Commiſ-

280 ſion enjoined them, but not to find Fault with what their Principals had *concluded on*; that the Principals, on both ſides, had preſcribed the manner of drawing and marking out the Circle, in Terms ſo full and plain as removed all Occaſion for Doubts, by *expreſsly agreeing* that the Circle, mentioned in the Charter for *Penſilvania*, and Deed of Bargain and Sale, or Feoffment of *Newcaſtle* (or ſo much thereof as was requiſite) ſhould be drawn and mark'd out *at the diſtance of* 12 Engliſh *Statute Miles from the Town* of *Newcaſtle*.

281 And the ſaid *Maryland* Commiſſioners propoſed, that Artiſts ſhould give their Opinions touching the ſaid Circle, and then the ſaid Commiſſioners adjourned their Conference till the Afternoon.

And, in the Afternoon of the ſame 2d of *February*, Quorums of the ſaid Commiſſioners met again, for the eleventh time, when the Plaintiffs Commiſſioners deſired thoſe for *Maryland* to reduce into Writing, what it was that they would have Artiſts conſulted on? which they declined; then the Plaintiffs Commiſſioners found it highly neceſſary to inſiſt,

282 and did inſiſt, that Clerks might be appointed to take Minutes, which would prevent Miſunderſtandings, and ſhew thereafter what had been tranſacted at the ſeveral Meetings; but the Defendants Commiſſioners, again, refuſed the ſame, and alledged there was no manner of Occaſion therefore.

Hereupon the Plaintiffs Commiſſioners urged that the Objections to the Dimenſions of the Circle ſhould be ſtated in Writing; but the ſaid *Samuel Ogle* perſiſted, that it was needleſs, he declaring that the Queſtion was plainly thus, what was meant by the Circle mentioned in the *Deed of Feoffment?*

283 The Plaintiffs Commiſſioners thereupon obſerved, that the Queſtion was not truly ſtated; for that the Direction, in the Commiſſions, was to run the Circle mentioned in the Charter for *Penſilvania*, *and* Deed of Feoffment, but not that in the Feoffment *only*; and therefore, if they were to be recurred to, at all, the Charter and Deed ſhould *both* be taken together; but that they conceived there was not the leaſt reaſon, or occaſion, to look further than their reſpective Commiſſions.

284 However, at laſt, the ſaid *Samuel Ogle* gave in his Queſtion, in the following Words, What Circle is underſtood by theſe Words, *viz.* Enfeoff and Confirm, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever, all that the Town of *Newcaſtle*, otherwiſe called *Delaware*, and all that Tract of Land, lying within the Compaſs or Circle of 12 Miles about the ſame? Upon which the Commiſſioners parted, and agreed to meet in the Morning of the next Day (ſome naming 10, others 11, of the Clock for ſuch Meeting) and to bring Artiſts on both ſides, to hear Opinions touching the Circle.

285 And the Plaintiffs expreſly charge that a Quorum of the Plaintiffs Commiſſioners, particularly, the ſaid *Iſaac Norris*, *Samuel Preſton*, and *James Steele* by name, did, in the Morning of the next Day, being the 3d of *February* 1732, about 11 of the Clock, meet, for the 12th time, a Quorum of the Defendant's Commiſſioners, in the ſaid Court-houſe at *Newcaſtle*, purſuant to the laſt Adjournment, and, as the Plaintiffs Commiſſioners plainly perceived the Drift of the Defendant's Commiſſioners, who had repeatedly refuſed to

286 admit Clerks to take Minutes of the Proceedings, and to admit a Commiſſioner on each ſide to take Minutes of the Proceedings, and had before taken private Notes, which (either by Accident, or Deſign) were falſe and untrue Notes or Minutes of what had paſt, ſo, the Plaintiffs Commiſſioners apprehended they could not be too careful to prevent more Miſtakes; and, therefore, as the ſaid Defendant's Commiſſioners ſeemed to inſiſt ſo much on their Doubt about the Dimenſions of the ſaid Circle, ſome others of the Plaintiffs Commiſſioners

287 (beſides thoſe three who were at the Court-houſe) were preparing, in a Houſe nearly contiguous to the ſame Court-Houſe, the Anſwer and Obſervations, in Writing, of the Plaintiffs Commiſſioners touching the ſaid Circle, to be delivered to the ſaid *Maryland* Commiſſioners in Writing, ſo as not to be liable to Wilful, or Accidental, Miſpreſentation; and, as ſuch Anſwer and Obſervations were long, and it was neceſſary to keep a Copy of what ſhould be ſo delivered, it took up ſome time to copy the ſame.

288 And the Plaintiffs further charge that, during a part of that time wherein the ſaid Obſervations of the Plaintiffs Commiſſioners were ſo Copying or Tranſcribing, the ſaid *Iſaac Norris*, *Samuel Preſton*, and *James Steele* did meet, and were met, as aforeſaid, purſuant to the laſt Adjournment, and were in Company with a Quorum of the Commiſſioners of the ſaid Lord *Baltimore*, in the ſaid Court-houſe; but the reſt of the Plaintiffs Commiſſioners, who were Tranſcribing the ſaid Obſervations, wanting a Paper, which the ſaid *James Steele* had,

289 ſent to him, to the Room where the Commiſſioners on both ſides were met and in Company together as aforeſaid, for ſuch Paper; and the ſaid *James Steele*, thereupon, went for the ſaid Paper to his Houſe or Lodging, not Yards diſtant from the ſaid Court Houſe; and, at the ſame time the ſaid *James Steele* went for the ſaid Paper, the ſaid *Iſaac Norris* ſtept out of the Room where the Commiſſioners on both ſides were met, and deſired the ſaid *James Steele* to haſten in the other Commiſſioners, who were to bring in the ſaid Obſerva-

290 tions; and the ſaid *Iſaac Norris* immediately returned again into the Room where the ſaid *Samuel Preſton* and the Commiſſioners for *Maryland* were; and, in a few Minutes after, the ſaid *James Steele* and two others of the Plaintiffs Commiſſioners going up, to meet their Brethren and the ſaid Commiſſioners for *Maryland* in the ſaid Court-houſe, met the ſaid *Iſaac Norris* and *Samuel Preſton*, in regard the ſaid *Samuel Ogle* (for whom and his Brother Commiſſioners of *Maryland* the Plaintiffs Commiſſioners had, at many former

291 Meetings, as the Plaintiffs Charge, and, particularly, but the Day before, waited an Hour or two, or more, after the time of Appointment and Adjournment before a Quorum of ſuch *Maryland* Commiſſioners came) had taken the Advantage of that ſhort Interval of Time in which the ſaid *James Steele* was called out of the Room as aforeſaid, and he the ſaid *Samuel Ogle* and his Brother Commiſſioners for *Maryland* had departed from the ſaid Meeting Place, and retired to their Lodgings, in the ſaid Town of *Newcaſtle*; and, at

292 the time the ſaid *Samuel Ogle* and the other Commiſſioners for *Maryland* pretended to leave the ſaid Place of Meeting, it then wanted near half an Hour of 12 of the Clock at Noon, of the ſame 3d of *February* 1732.

And the Plaintiffs Commiſſioners then preſent with the ſaid *Maryland* Commiſſioners, and particularly the ſaid *Samuel Preſton*, intreated the ſaid *Samuel Ogle* and his Brother Commiſſioners to tarry a little, but to no Effect.

And

293 And the Plaintiffs further charge that, inſtantly, and immediately after the ſaid *Samuel Ogle* and his Brother Commiſſioners of *Maryland* had ſo departed as aforeſaid, one of the Plaintiffs Commiſſioners, in the Preſence of ſeveral Perſons, waited on the ſaid *Samuel Ogle* and three others of the Defendant's ſaid Commiſſioners, and acquainted them of the Surprize their Departure had occaſioned; that if the ſaid Lord *Baltimore*'s Commiſſioners pretended there had been any delay, the Plaintiffs Commiſſioners were then ready to meet them, and that a good deal of Buſineſs might, ſtill, be tranſacted *even before Dinner*; and that the *Maryland* Commiſſioners could not but know that, on the then next Day
294 before, the Plaintiffs Commiſſioners had waited for the ſaid *Maryland* Commiſſioners a full Hour after the time adjourned to on the day before.

But the ſaid *Samuel Ogle* declared he could not think of meeting the Plaintiffs Commiſſioners till he ſhould adviſe of the Matter, and that if, by any Failure in meeting, the Defendant had gained any Advantage, he ſhould think himſelf to blame in giving it up.

And the Plaintiffs Commiſſioners again preſſed the Meeting, but the ſaid *Maryland* Commiſſioners refuſed it.

295 And the Plaintiffs further Charge that, upon the ſame 3*d* of *February* 1732 (purſuant to an Appointment made the Night before) the Plaintiffs Commiſſioners and the Defendant's Commiſſioners dined together, in the ſame Town of *Newcaſtle*; and, as ſoon as Dinner was over, on the ſame Day, a full Quorum of the Plaintiffs Commiſſioners waited on a full Quorum of the Defendant's Commiſſioners, namely, on the ſaid *Samuel Ogle* and *Charles Calvert*, and on *Edmund Jennings* Eſq; (who had before been ap-
296 pointed by the Defendant as one of his Commiſſioners, in the room of another of his Commiſſioners pretended to be ſick) at their Lodgings, at the Houſe of *William Bottel*, Inn-keeper, at *Newcaſtle* aforeſaid; and, then and there, the Plaintiffs Commiſſioners declared they had put their Thoughts in writing upon the Objection ſtarted the laſt Night by the *Maryland* Commiſſioners, and, at the ſame time, delivered a Copy thereof *into the Hands* of the ſaid *Samuel Ogle*, who took and looked over ſome Parts of the ſaid Writing;
297 and, thereby, the Plaintiffs Commiſſioners (5 of whom had ſigned the ſame Writing) had anſwered the Objections made by the ſaid *Maryland* Commiſſioners; and the Plaintiffs Commiſſioners did alſo, thereby, declare themſelves to be ready, and offered themſelves, to proceed to the drawing and marking out the ſaid Circle; and the Plaintiffs Commiſſioners deſired the ſaid *Samuel Ogle* and his Brother Commiſſioners to meet the Plaintiffs Commiſſioners, in the ſaid Court-houſe, or ſuch other Place as they pleaſed.

298 But the ſaid *Samuel Ogle* declared, he did not look upon himſelf to be obliged to appoint any other Meeting; that if any Advantage had ariſen to his Conſtituent he could not anſwer it to the Defendant, or to himſelf, not to lay hold of it, and the ſaid *Samuel Ogle* refuſed to appoint any Meeting.

Whereupon the Plaintiffs Commiſſioners, inſtantly on the ſame 3d of *February*, ſerved the ſaid *Samuel Ogle* and *Charles Calvert* with a written Notice, or Summons, under the
299 Hands of 4 of the Plaintiffs Commiſſioners, to meet, that ſame Evening, at 6 of the Clock, in the ſaid Court-houſe, and the Plaintiffs Commiſſioners, likewiſe, gave notice of the ſaid Summons to three other Commiſſioners of *Maryland*, then at *Newcaſtle*; but the ſaid *Samuel Ogle* refuſed to take the ſaid Notice or Summons into his Hands; whereupon he was acquainted of the Contents thereof, and the ſame Notice or Summons (after being tendered to, and refuſed by, him) was, in his Preſence, laid down upon a Chair near him.

300 And the Plaintiffs Charge that, at 6 o' Clock that ſame Evening, being ſtill the 3d of *February* 1732, and from 6 o' Clook till paſt 8 of the Clock the ſame Evening, the Plaintiffs Commiſſioners did meet and wait, in the ſaid Court-houſe, purſuant to the ſaid written Notice or Summons, but no one of the ſaid *Maryland* Commiſſioners did come, or ſend, there, during all that Time, altho' 5 of the ſaid *Maryland* Commiſſioners were then in the ſaid Town of *Newcaſtle*.

301 And the Plaintiffs further Charge that the Plaintiffs Commiſſioners, being determined to leave the Defendant's Commiſſioners without Excuſe, did, that ſame Evening of the 3d of *February* 1732, about 9 o' Clock, perſonally ſerve a Quorum of the ſaid *Maryland* Commiſſioners, namely, the ſaid *Charles Calvert*, *Benjamin Taſker*, and *Edmund Jennings*, with a written Notice, ſigned by 4 of the Plaintiffs Commiſſioners, to proceed on the ſaid Commiſſions upon the *Monday* Morning then next, being
302 the 5th of *February* 1732, at the ſaid Court-houſe, at 10 of the Clock in the Forenoon; and a Copy of the ſaid laſt mentioned Notice was alſo left at the Lodgings of the ſaid *Michael Howard*, a 4th of the ſaid *Maryland* Commiſſioners, and which Notice afterwards came to his Hands; and another, or 5th Copy of the ſame, was endeavoured to be ſerved on the ſaid *Samuel Ogle*; but a Meſſage being ſent in to him, and he acquainted thereof, he refuſed to be ſeen or to be ſerved therewith, ſaying, that it was an unſeaſonable
303 Time, and he would receive no Meſſages; altho', as the Plaintiffs charge, it was then but a little after 9 at Night, and he was then playing at Tables with the ſaid *Michael Howard*.

And the Plaintiffs Charge that the Plaintiffs Commiſſioners met, and were, at the ſaid Court-houſe, on *Monday* the 5th of *February* 1732, purſuant to the ſaid laſt Notice, and
304 ſtayed there a conſiderable time, and afterwards ſtayed in the ſaid Town of *Newcaſtle* that whole Day, and great part of the next; but found (as the Truth was and is) that every one of the Defendant's Commiſſioners had, on the *Sunday* before, gone out of the Town, and returned to *Maryland*, without any the leaſt Notice to the Plaintiffs Commiſſioners of ſuch their Intention ſo to do.

And the Plaintiffs further Charge that, when the Defendant's ſaid Commiſſioners returned to *Maryland*, the Defendant was then in *Maryland*, and was acquainted with their Be-
305 haviour as aforeſaid, or with ſo much thereof as they thought proper to acquaint him of; whereupon, on the 15th of the ſame *February*, he the Defendant writ and ſigned a Letter to the ſaid *Patrick Gordon*, pretending that, at *other* former Meetings, the Commiſſioners had accuſtomed to meet at 10 of the Clock in a Morning, and that tho' the Plaintiffs Commiſſioners had met, on *Saturday* the 3d of the ſaid Month of *February*, yet, that one of the Plaintiffs Commiſſioners (meaning the ſaid *James Steele*, who was ſent to for a Paper as aforeſaid)
306 had left the Company at the very Inſtant his the Defendant's Commiſſioners deſired to proceed on Buſineſs; which the Defendant therein magnifies to the greateſt Degree, but took no manner of Notice of the *many verbal Notices* and Requeſts, and of the *two different*, and ſubſequent, *written Notices*, given by the Plaintiffs Commiſſioners to the Defendant's Commiſſioners, on the ſame 3d of *February*. And the Defendant writ, in his ſaid Letter, that, were he inclinable to make the ſtrict Uſe of that Failure, he might not only diſre-
307 gard any further Notice, but intitle himſelf, immediately, to the Forfeiture, but that he thought himſelf happy in being then in his Province, that he might do, what perhaps his Commiſſioners could not, which was, to recede from the Advantage he might claim; wherefore, he was willing, and thereby offered, and had accordingly given Directions to his Commiſſioners, to meet the Plaintiffs Commiſſioners, *at the Town of Joppa* in *Maryland*, on the firſt *Monday* in *May*.

308 And the Plaintiffs Charge, that he the Defendant neither had Power to appoint any Meeting (his whole Power being given to his Commiſſioners) nor did intend that the Commiſſioners ſhould meet there, which would be a very vain thing too, as the firſt Point to be fixed was the Center in *Newcaſtle* Town, whereas, upon enquiry, *Joppa* was diſcovered to be *very near* 70 *Miles from* Newcaſtle, and a Village of a very few Cottages in it, without Houſes and other reaſonable and fitting Accommodations, either for Gentle-
309 men, or their Cattle; but the Plaintiffs charge that the ſaid Defendant writ that Letter, and pretended thereby to relax his Right, out of a Conſciouſneſs that his own Commiſſioners had not proceeded with that fairneſs, candour, and diſpatch which he had covenanted by his Articles they ſhould uſe, and with a View to accept of Notice from the Plaintiffs Commiſſioners, and to revive the Meetings of the Commiſſioners again, leſt he himſelf (and not the Plaintiffs) ſhould forfeit the ſaid 5000*l*.

310 And the Plaintiffs further Charge that, at the very time of the ſaid Defendant's writing the ſaid Letter, himſelf had declared, to ſeveral Perſons, that his Commiſſioners ſhould meet again, meerly to prevent *his own incurring* the ſaid Forfeiture, or to ſome ſuch or the like effect.

And the Plaintiffs further Charge that, after ſo many wilful and obſtinate Failures on the Part of the Commiſſioners of the Defendant, all the Commiſſioners on the Plaintiffs
311 part, in order to leave the ſaid Defendant (who was then in *Maryland*) without the leaſt Shadow of Excuſe, did, on the 28th of *March* 1733, ſign a Notice to his Lordſhip's Commiſſioners, recapitulating the Proceedings of the ſaid 3d of *February*, and declaring, that the Plaintiffs Commiſſioners would attend, at *Newcaſtle* (which was therein truly mention'd to have been, by the joint Conſent of the Commiſſioners on both ſides, acknowledged to be the *only proper Place* for beginning the Buſineſs then immediately before the Commiſ-
312 ſioners) on the 16th of *April* then next, which Notice was perſonally ſerved on ſix of the Defendant's Commiſſioners in *Maryland*; in return whereto the Defendant's Commiſſioners ſent (by the Meſſenger of the Plaintiffs Commiſſioners) a croſs Notice, to meet at *Joppa* on the 7th of *May* —.

And the Plaintiffs Charge that their Commiſſioners, or a Quorum of them, repaired to *Newcaſtle*, and attended there the whole Day of the 16th of *April* 1732, purſuant to their own Notice, but no one of the Commiſſioners for *Maryland* appeared, or was then there.

313 And the Plaintiffs Charge that five of the Plaintiffs Commiſſioners went to *Joppa*, at great Inconvenience, and met a Quorum of the ſaid *Maryland* Commiſſioners, on the ſaid 7th of *May* 1733, and the ſaid *Samuel Ogle* ſaid that, what had paſt at their laſt Meeting, at *Newcaſtle*, was about the Circle, and that the Commiſſioners were now met to treat on that Subject, and learn each other's Sentiments on it; and he aſk'd the Plaintiffs Commiſſioners, whether they would run any *other* Circle than one at 12 Miles diſtance from *Newcaſtle*?

314 And it was inſiſted on, by the Plaintiffs Commiſſioners, and at length granted by thoſe for *Maryland*, that the Queſtion ſhould be put into Writing; which was done, and was delivered (ſigned by one of the Commiſſioners for *Maryland*.)

To which the Plaintiffs Commiſſioners returned a written Anſwer, ſigned by one of their Number, ſtating the very Words of the ſaid Articles of Agreement, relating to the
315 ſaid Circle, and returning for Anſwer to the ſaid Queſtion, that the Plaintiffs Commiſſioners were ready, and offered themſelves, to run out the ſaid Circle, according to the ſaid Articles of Agreement, and did not conceive they were directed to run any *other* Circle than *the ſaid Circle mentioned in the ſaid Articles*.

Whereupon, the ſaid *Samuel Ogle* ſaid he, and his Brethren, would take time to conſider, and the Commiſſioners adjourned till next Morning.

And on the 8th of *May*, Quorums of the ſaid reſpective Commiſſioners being again met, at *Joppa*, the ſaid *Samuel Ogle* ſaid, he did not perfectly underſtand the ſaid Anſwer,
316 and that his and the Plaintiffs Commiſſioners Sentiments, about the Circle, ſeemed to differ much.

To which the Plaintiffs Commiſſioners anſwered, that the Directions, in the Articles of Agreement, were ſo exceedingly plain, that they could not be eaſily miſtaken.

And the ſaid *Maryland* Commiſſioners inſiſted, that the Circle, in the Deed of Bargain and Sale or Feoffment of *Newcaſtle*, was *the Circle* directed to be run; and that, by the
317 ſaid Deed, it was evident the ſame was not a Circle of 24 Miles Diameter, and, therefore, they inſiſted (moſt ſurprizingly) that the Directions, in the Articles, to run the ſame at the diſtance of 12 Miles from *Newcaſtle*, were repugnant to that Deed, and void in themſelves.

And they, being aſked what they conceived to be the Dimenſions of the Circle mentioned in the ſaid Deed? anſwered, that it could mean no other than a Circle whoſe *Circumference was 12 Miles*.

And the Plaintiffs Commiſſioners anſwered, and ſhewed, that, as well in the Charter for *Penſilvania*, as in the *two* ſeveral Deeds from the Duke of *York*, the Circle was plainly
318 deſcribed to be a Circle of 12 Miles diſtance from *Newcaſtle*, and that ſo King *Charles* the Second, and the Duke of *York*, underſtood it; and they, the Plaintiffs Commiſſioners, conceived the common Acceptation of the Words in the Deed would conſtrue them, and that, admitting the leaſt Doubt could be raiſed on it, yet, the Proprietors, on both ſides, having an abſolute Right to determine it, they had fully ſettled, that Point, by directing the ſame to be run *at the diſtance of* 12 *Miles from* Newcaſtle.

319 And the Defendant's Commiſſioners replied, that they could not believe it was the intention of the Proprietors to deviate from the Deſcription of the Circle mentioned in the Deed of Feoffment.

To which the Plaintiffs Commiſſioners again anſwered, that the Article was no Deviation from it, for that that Circle having been *always* underſtood to be a Circle of 12 Miles Radius, the Proprietors had *accordingly* declared it to be of *that* Dimenſion; and that it was very difficult to account why the Commiſſioners ſhould take upon themſelves, to find
320 fault with what the Proprietors on each ſide had done, or pretend to underſtand the ſame better than thoſe who, being ſo deeply intereſted in the Affair, had undoubtedly well conſidered it.

To which the ſaid *Samuel Ogle* ſaid that, the Perſons employed in drawing up the Agreement were to blame, and that many an honeſt Gentleman, truſting too much to others, had been led into Miſtakes; and that he *muſt* believe the Proprietors never intended to have any other Circle run than that mentioned in the Deed of *Feoffment*, (whereas as the Plaintiffs
321 expreſsly Charge, the Defendant himſelf, in his own written Propoſal, previous to the ſaid Articles of Agreement had, *twice over*, plainly expreſt that the Circle ſhould be 12 Miles *diſtant from* Newcaſtle, and ſo it had always been underſtood by himſelf, and others, concerned in the Tranſaction, previous to the ſettling the ſaid Articles of Agreement.)

And, then, the ſaid *Samuel Ogle*, leaving this firſt Matter thus undetermined, and which was to govern the whole Work, propoſed that the Plaintiffs Commiſſioners ſhould pro-
322 ceed to Cape *Hinlopen*, at the bottom or South part of all the ſaid three lower Counties, and try if they could not better agree on the Execution of that Part of the Articles which directed a Line to be drawn from thence a-croſs the Peninſula; whereupon on the ſame 8th of *May* 1733, five of the Plaintiffs Commiſſioners drew out, and ſigned, and delivered to
323 the Defendant's Commiſſioners a Requeſt, in Writing, (dated at *Joppa* the ſaid 8th of *May*) to join in drawing and marking out the ſaid Circle, at the diſtance of 12 Miles from the ſaid Town of *Newcaſtle*, as by the ſaid Articles was agreed and directed, and, then, to proceed to the running and marking out the other Lines in the ſaid Articles directed and agreed to be run, as in that Agreement was directed; and that, if the Defendant's Commiſſioners refuſed ſo to do, that they would ſatisfy the Plaintiffs ſaid Commiſſioners why they would not?

324 And, on the ſame 8th of *May*, four of the Defendant's Commiſſioners ſigned, and delivered, a Writing to the Plaintiffs Commiſſioners, inſiſting that the Agreement meant no other Circle than that mentioned in the Deed of *Feoffment*; which Circle, they ſaid, they had not refuſed to mark out, but deſired the Plaintiffs Commiſſioners to agree with them in the drawing it out. And, then, the Commiſſioners adjourned till the Afternoon of the ſame Day.

325 That, on the Afternoon of the ſame 8th Day of the ſame Month of *May* 1733, the Commiſſioners, on both ſides, being met, the Commiſſioners of *Maryland*, left their laſt Paper ſhould have given up the Point ſo long and unreaſonably conteſted by them, delivered to the Plaintiffs Commiſſioners another written, or ſigned Offer and Propoſal to run out a Circle; and, therein, they preciſely mention it to be a Circle, whoſe *Circumference* ſhould be 12 Miles about *Newcaſtle*.

326 Which Paper the Plaintiffs Commiſſioners anſwered, the ſame Day, in Writing; inſiſting that that was not the Circle they were directed to run by the ſaid Articles, but that the Circle they were to run was one whoſe *Radius* (not Circumference) was 12 Miles; which Circle, only, the Plaintiffs Commiſſioners declared they conceived themſelves warranted to run, and offered to do; and an Adjournment being then propoſed, by the ſaid *Samuel Ogle*, who pretended to have Engagements to wait on his Proprietor on a Viſit to the Governor of *New-York*, the Plaintiffs Commiſſioners, (after Expoſtulating with the Defendant's Commiſſioners for dragging them to *Joppa*, a Place at great diſtance from the
327 Buſineſs, and deſtitute of Accommodations, and Neceſſaries, and then doing nothing but repeating their former repeatedly anſwered Objections, and moving, preſently, to adjourn) did agree to adjourn, but the Night was ſo far ſpent in Debate, that a Minute of Adjournment could not, that Night, be ſettled.

But, upon the next Day, being the 9th Day of the Month of *May* 1733, the Commiſſioners, on both ſides, met, and a Minute of Adjournment was agreed to, for meeting at
328 *Philadelphia* on the 21ſt of *May* then Inſtant; under a Proviſo, that if the *Maryland* Commiſſioners could not return from *Burlington*, ſo as to meet on that Day, then, the next meeting was to be at *Philadelphia*, but upon ſuch other Day (before the *Maryland* Commiſſioners return into *Maryland*) as the *Maryland* Commiſſioners ſhould appoint; and under another Proviſo, that the *Maryland* Commiſſioners ſhould not be ſtayed, above one Day, from returning home; and that the next Adjournment ſhould be, into *Newcaſtle* County, for the 18th Day of *June* then following.

329 Which Adjournment was requeſted by, and agreed to for the Convenience of, the ſaid *Maryland* Commiſſioners, and them only.

But the ſaid *Maryland* Commiſſioners, not returning ſo ſoon from *Burlington* as the 21ſt of the ſaid *May*, ſent to the Plaintiffs Commiſſioners a Notice, of the 25th of the ſaid *May*, to meet them, the then next Day, at *Philadelphia*.

330 And, accordingly, on the 26th of *May* 1733, the Commiſſioners, on both ſides, met, at *Philadelphia*, and, then, the *Maryland* Commiſſioners pretended, that their Proprietor intended to return very ſoon to *England*, and that ſome of his Commiſſioners were to attend him to *Virginia*, and, therefore, that the next Adjournment, which was to have been for the 18th of *June*, would be extremely Inconvenient, to them; whereupon ſo candid were the Plaintiffs Commiſſioners through the whole Proceeding, that they agreed to adjourn to the 3d of *September* then next, and a Minute of Adjournment was made, to meet then at *Newcaſtle*.

331 That, in the Morning of the 3d of *September* 1733, Quorums of the ſaid Commiſſioners, on each ſide, met at *Newcaſtle*, and the Plaintiffs Commiſſioners propoſed to proceed, but the ſaid *Maryland* Commiſſioners deſired that what was propoſed ſhould be reduced into Writing, and then adjourned till the Afternoon.

And the Commiſſioners, on both ſides, met again in the Afternoon of the ſame Day, when the Plaintiffs Commiſſioners delivered to thoſe for *Maryland*, a Paper, in Writing,
332 acquainting them that they the Plaintiffs Commiſſioners were ready with their Artiſts to proceed, immediately, to run out the Circle mentioned in the ſaid Charter and Deed, at the diſtance of 12 Miles from *Newcaſtle*; and mentioned in the ſaid Paper that, as a great part of the time appointed for executing the ſaid Articles was then elapſed without any Progreſs made, therefore, the Plaintiffs Commiſſioners earneſtly deſired and preſt the Commiſſioners of *Maryland* to join with them in the ſaid Work, that no more time might be loſt; and, then, the ſaid Commiſſioners adjourned till next Day.

333 And, upon the 4th of *September* 1733, the Commiſſioners, on both ſides, met again, and the ſaid *Maryland* Commiſſioners delivered to the Plaintiffs Commiſſioners a Paper, in Writing, again inſiſting that the Circle, to be run, was (as they ſaid they were informed and convinced by Mathematicians) no other than a Circle whoſe *Circumference* or Periphery was 12 Miles, and whoſe Diameter was ſomewhat leſs than *four* Miles, and, that Circle, the ſaid *Maryland* Commiſſioners did thereby declare themſelves ready to proceed to run and mark out.

334 Whereupon the Plaintiffs Commiſſioners deſired to ſee that Opinion of Mathematicians, which the ſaid *Maryland* Commiſſioners pretended to be ſo convinced by, and had a ſhort Query and Anſwer delivered to them, with the Names of *Hugh Jones* and *William Ramſey*, thereunder, upon the Words of the ſaid Deed of Feoffment *only*, that *they* underſtood the Term Circle, in the ſaid Feoffment, to mean a Circumference or Area, and, as there expreſt, to be limited to a Circumference or Periphery, there called Compaſs about, the Diame-
335 ter of which Circle, or Compaſs about, was (as *they* apprehended) ſomewhat leſs than four Miles; which the Plaintiffs charge was not a fair Queſtion put to the ſaid two Perſons, neither were they indifferent Perſons, but Dependants on the Defendant, and the Plaintiffs Commiſſioners made ſome verbal Remarks thereon, and, then, the Commiſſioners adjourned till the Afternoon.

And, in the Afternoon of the ſame 4th of *September* 1733, the Commiſſioners being again met, the Plaintiffs Commiſſioners delivered, to thoſe for *Maryland*, a written Paper,
336 containing their Reaſons why this Queſtion did not fall under the Cognizance of Mathematicians, as ſuch, and, then, the Commiſſioners adjourned till next Morning.

And, upon the 5th of *September* 1733 in the Morning, the Commiſſioners being again met, thoſe for *Maryland* returned their Anſwer, in Writing, that they were not ſatisfied with the Reaſons offered by the Plaintiffs Commiſſioners, but inſiſted on their own former Opinion as to the Circle, and, then, the Commiſſioners adjourned till the Afternoon.

337 At which time they met, and, after further Diſcourſe, adjourned to the next Morning.

And, upon the 6th of *September* 1733, the Commiſſioners on both ſides met again, at which time the Plaintiffs Commiſſioners delivered a ſigned written Paper, inſiſting on the Circle as they had before inſiſted, and requeſted the *Maryland* Commiſſioners, either to join in running *ſuch* a Circle, or directly to declare they would not.

338 And the *Maryland* Commiſſioners delivered a Queſtion in Writing, to the Plaintiffs Commiſſioners, deſiring to know whether they would not conſent to run out any Circle, but one whoſe Radius was 12 Miles?

And the Commiſſioners ſeparated, for a ſhort time, and then met again, the *Maryland* Commiſſioners delivered to the Plaintiffs Commiſſioners a written Anſwer, that they would not agree or join to run or mark out a Circle at the diſtance of 12 *Engliſh* Statute Miles from the Town of *Newcaſtle*.

339 And the Plaintiffs Commiſſioners, on their Parts, delivered in their Anſwer in Writing, that they could not agree to run any other than a Circle at the diſtance of 12 Miles from *Newcaſtle*.

And then, the Commiſſioners for *Maryland* propoſed an Adjournment, the Minute for which was to be brought in by each ſide at their Meeting that Afternoon.

And, accordingly, the Commiſſioners on both ſides did meet that ſame Afternoon, and after much Debate, a Minute of Adjournment, to meet at *Newcaſtle* on the 14th of *November* then next, was ſigned.

340 That the Commiſſioners on both ſides, or ſufficient Quorums of them, did meet, at *Newcaſtle*, on the ſaid 14th of *November* 1733, and on the 15th and 16th of the ſame Month, and continued to meet, debate and adjourn during thoſe three laſt mentioned Days, and the Commiſſioners on each ſide appearing fixed, in their former Sentiments, reſpectively, the Commiſſioners for *Maryland*, thereupon, frequently declared, that, as the Plaintiffs Commiſſioners would not join with them in running the Circle they contended for, it was to no purpoſe to continue any longer together, and therefore propoſed that the Commiſſioners ſhould depart, without Adjournment.

341 But the Plaintiffs Commiſſioners refuſed to agree thereto.

And, then, the Commiſſioners for *Maryland* delivered a Writing, whereby they propoſed and offered to the Plaintiffs Commiſſioners to proceed to Cape *Hinlopen*, in order to proceed in fixing the Cape, and running the Eaſt and Weſt Line directed by the third Article of the Agreement to be run from thence, and, then, adjourned to the next Day.

342 And, on the 17th of *November* 1733, the Commiſſioners on both ſides met again, and the Plaintiffs Commiſſioners delivered to thoſe for *Maryland* a written Paper, recapitulating many parts of the Conduct and Behaviour of the ſaid *Maryland* Commiſſioners from the firſt meeting, and giving the Reaſons why the Plaintiffs Commiſſioners could not proceed to other Buſineſs and Lines (which were to be directed and governed by the Circle) until the Circle it ſelf was fixed as directed in the ſaid Articles; and, then, the Commiſſioners adjourned till the 19th of *November*.

343 And, on the 19th of *November* 1733, the Commiſſioners met again on both ſides, and the ſaid *Maryland* Commiſſioners delivered a long Anſwer, in writing, tending to excuſe, or palliate, their Conduct and Behaviour, and with Remarks that no Minutes, taken, mentioned many Facts which had really paſt, and which the Plaintiffs Commiſſioners had inſiſted on in their laſt Paper (whereas that was one of the Complaints made by the Plaintiffs Commiſſioners, that thoſe for *Maryland* had *refuſed to* let any Clerk, or even two Com-
344 miſſioners, one on each ſide, take Minutes) and concluded the ſame with an expreſs Declaration that, in their Opinion, no other Conſequence could ariſe from the Differences in Judgment between them, and the Plaintiffs Commiſſioners, and the Plaintiffs Commiſſioners refuſal to proceed to Cape *Hinlopen*, than that, either the ſaid Commiſſioners ſhould continue at *Newcaſtle* until the 25th of *December* 1733, without running the Circle, or, depart from *Newcaſtle* without further Adjournment; the which they left to the Conſideration of the Plaintiffs Commiſſioners, and, then, the Commiſſioners adjourned till the next Day.

And, on the 20th of *November* 1733, the Commiſſioners on both ſides met again, and adjourned to the next Day after.

345 And, on the 21ſt of *November* 1733, the Commiſſioners on both ſides again met, and the Plaintiffs Commiſſioners delivered to thoſe for *Maryland*, a written Paper of Obſervations and Arguments upon many parts of the Proceedings and Papers, and the Commiſſioners adjourned to the next Day.

346 And, on the 22d of *November* 1733, the Commiſſioners met on both ſides again, and thoſe for *Maryland* delivered to the Plaintiffs Commiſſioners another long Paper, and the Commiſſioners adjourned till the next Day.

And, on the 23d of *November* 1733, the Commiſſioners on both ſides met again, and the Plaintiffs Commiſſioners delivered to thoſe for *Maryland* the Anſwer, to the laſt Paper, and then, the Commiſſioners for *Maryland* propoſed that, ſince the Commiſſioners had continued ſo long together in exchanging of Papers, to no manner of purpoſe, being ſtill as far from agreeing as ever, they ſhould then depart.

347 Whereupon, it was agreed that a Minute ſhould, by mutual Conſent, be prepared againſt the next Day, to which time the Commiſſioners adjourned.

And, upon the 24th of *November* 1733, the Commiſſioners met for the laſt time, and ſigned a Minute; which recited the ſaid Articles of Agreement, and the Original Commiſſion granted by the Defendant to his Commiſſioners, and the Original Commiſſion granted by the Plaintiffs to their Commiſſioners, and reciting the Meeting between the Com-
348 miſſioners on the 6th of *October* 1732, and other ſubſequent Meetings; and reciting ſeveral ſubſequent Appointments of ſome particular Commiſſioners for *Maryland*, in Place of others who were ſick or dead or could not attend; and that ſince the Meetings at *Newcaſtle*, divers Appointments and Adjournments had been made, and ſundry Propoſitions and Debates at their ſeveral Meetings had paſſed, and that five Commiſſioners on each ſide had met at *Newcaſtle* on the 14th of *November* then Inſtant, where, reſuming their former
349 Debates, and making divers Propoſitions to each other from the ſaid 14th to that preſent 24th of *November*, each ſide continued to perſiſt in their former Opinion, that is (as is expreſſed in the ſaid Minute) the Commiſſioners on the part of *Penſilvania* inſiſted, as they always had done, in running and marking out a Circle (or ſo much thereof as ſhould be re-
350 quiſite) at the diſtance of 12 *Engliſh* Statute Miles from the Town of *Newcaſtle*, as in the ſecond Article of Agreement is directed, as the only Circle they conceived themſelves impowered to run; and that the Commiſſioners for *Maryland*, on their part, inſiſted, as at former Meetings they had done, upon running a Circle (or ſo much thereof as ſhould be requiſite) whoſe Periphery or Circumference is 12 Miles only, or whoſe Diameter is ſomewhat leſs than 4 Miles, as the only Circle meant in the Deed of Bargain and Sale and Deed of Feoffment for *Newcaſtle*, and as the only Circle intended by the Proprietors in the ſaid Articles; which Circle the Commiſſioners of *Maryland* conceived themſelves only
351 impowered to run; and that, under that difference of Judgment, the Commiſſioners of *Penſilvania* having refuſed to proceed to Cape *Hinlopen*, in order to fix the Cape and run the Eaſt and Weſt Line, becauſe, they ſaid, for the Reaſons by them aſſigned, it could be to no manner of purpoſe. The Commiſſioners of *Maryland* were of Opinion that, no other Conſequence would ariſe, than, either that the Commiſſioners ſhould continue at *Newcaſtle*, until the ſaid 25th of *December* next, without running the ſaid Circle about *New-*
352 *caſtle*; or, depart from *Newcaſtle* without further adjournment; and, as the laſt 11 Days, ſince the 14th then Inſtant incluſive, had paſſed in Debates that had not in the leaſt tended to any nearer Agreement between the Commiſſioners, and the time limited for executing the ſaid Articles was then ſo near expiring that, even with the utmoſt Induſtry and Application, it would, ſcarce, by any means, be found practicable to run and mark out and fix all the ſeveral Lines in the Articles agreed and required to be done, Therefore up-
353 on the whole, the Commiſſioners, on both ſides, under thoſe Circumſtances, did thereby agree that it could not anſwer any of the Purpoſes intended by the ſaid Articles to continue longer together, and that they, therefore, thought it proper to depart, without further adjournment, and leave the Conduct of the Commiſſioners, on both ſides, and their Endeavours, uſed towards the execution of the ſaid Articles of Agreement, to the Juſtice and Wiſdom of their Superiours.

354 As by the ſaid parting Minute, which is dated the 24th of the ſaid Month of *November* 1733, and the ſaid other Papers, Propoſals and Writings, interchanged between the ſaid Commiſſioners, had the Plaintiffs the ſame to produce, relation being thereunto had reſpectively, might and would more fully and at large appear.

And thus, as the Plaintiffs Charge, the Meetings, between the Commiſſioners on both ſides, were put an end to, and thereby the Circle, Lines and Bound-marks were not run,
355 markt or laid out by the 25th of *December* 1733, within the time covenanted and agreed by the ſaid recited Articles for the doing thereof, nor are yet run and markt out.

But the Plaintiffs expreſsly charge and inſiſt, that the not running and marking out the ſaid Lines, within the time aforeſaid, was in no ſort occaſioned by the Non-attendance of the Plaintiffs Commiſſioners from time to time purſuant to the Adjournments made, or, from any Default whatever on the part of the Plaintiffs, or of their Commiſſioners, but purely
356 and ſimply from a difference in Opinion between the Commiſſioners on each ſide (as thoſe for *Maryland* pretended) namely, whether the Commiſſioners were to mark out the Circle at 12 Miles diſtance from *Newcaſtle* (as the Articles and the Commiſſions moſt plainly, poſitively and expreſsly mentioned they were) or, at leſs than two Miles diſtant therefrom?

But, notwithſtanding ſuch difference, or pretended difference, in Opinion, the ſaid Articles of the 10th of *May* 1732 did, and do now, ſubſiſt in *full Force and Vertue*.

357 And the Plaintiffs further charge that the ſaid pretended difference of Opinion of the *Maryland* Commiſſioners, from that of the Plaintiffs Commiſſioners, was *nothing but a meer Pretence and Artifice*, purely to avoid executing the Agreement; and which Endeavour to that end had been before propoſed, directed and conſented to, by the Defendant himſelf, as a means to ſpin out the time mentioned in his Agreement, and avoid complying with his own Propoſal, and ſolemn and deliberate Agreement aforeſaid.

358 And the Plaintiffs Charge that the firſt News which arrived in *Great Britain* after *Chriſtmas* 1733 of the expiration of the time, mentioned in the Articles for running the Lines, being expired without their having been run, having arrived in *May* 1734, the Plaintiffs *John* and *Richard Penn*, both in *Great Britain*, did receive, at the ſame time, many Accounts of the great diſſatisfaction, troubles and uneaſineſs which the expiration of the ſaid time without the Lines having been run had given to their Tenants and Occupiers of
359 Land there, and who refuſed to pay to the Plaintiffs even thoſe very ſmall Quit-Rents which had been reſerved upon the Grants in Fee made by the Plaintiffs and their late Father to ſuch Tenants and Occupiers; in ſo much, that for the quieting the Minds of the People in the ſaid three Lower Counties, as well as for preſerving the Plaintiffs Right to the Premiſſes, the Plaintiff *John Penn*, the eldeſt Brother, at very great Inconvenience, was alſo obliged to go from *Great Britain* to *Penſilvania*, and did go on Board a Ship on
360 ſuch intended Voyage upon the 9th of *July* 1734, and, ſome time after, arrived there.

And, after ſuch the Plaintiff *John Penn*'s departure, the only one of the Plaintiffs who then was, or yet is, in *Great Britain*, was the Plaintiff *Richard Penn*, the youngeſt of the three Brothers, who was but lately come of age, and had no Knowledge of theſe old and intricate Diſputes and Tranſactions.

361 And the Defendant did know, and hear, both of the Plaintiff *John Penn*'s ſaid departure for *Penſilvania*, and alſo that the Plaintiff *Thomas Penn* was, and for about two Years before had conſtantly been, in *Penſilvania*.

And

362 And, thereupon, he the Defendant did, as the Plaintiffs have ſince diſcovered, upon the 8th of *Auguſt* 1734 (which was within leſs than a Month after the Plaintiff *John Penn*'s ſaid departure) preſent, or cauſe to be preſented, a Petition, to his preſent Moſt Excellent Majeſty in the Name of the ſaid Defendant, ſtating the Charter for *Maryland* in ſuch
363 manner as he thought proper, and alledging that ſome Matters appeared by an Order in Council of the 4th of *April* 1638, relating to one *William Clabourne* and the Iſle of *Kent* (*although there is no ſuch Order*) and ſtating ſome part, and a part only, of the ſaid Report and Order made in the Year 1685, but, *leaving out the moſt eſſential and material Parts*
364 *thereof*, in the very middle and heart of the ſame, and particularly thoſe Words whereby it was declared *that the ſaid three Lower Counties had, ever ſince the Charter for* Maryland, *been poſſeſſed by Chriſtians down to that Year* 1685, *and had continued as a diſtinct Colony from* Maryland; and ſtating that if, at the time of the Charter for *Maryland*,
365 any part of the Tract of Land, mentioned in the ſaid Report, was inhabited by Chriſtians, yet, that they were not Subjects of the Crown of *England*, but *Swedes* and *Dutchmen*, or other Subjects of Foreign Nations; and, therefore, as the ſaid *Charles* Lord *Baltimore* ſuggeſted, (though moſt untruely) by his ſaid Petition, that the *whole* of that part of the ſaid Peninſula was plainly deſcribed within the *Limits* of the ſaid Grant of *Maryland*, ſo that he conceived the ſame was intended to paſs, and did paſs, by that Charter,
366 he, by his ſaid Petition, beſought his Majeſty, by a further Charter or Letters Patent, to confirm to the Defendant his Heirs and Aſſigns the *whole* of ſuch part of the ſaid Peninſula as was contained within the *Limits* of the ſaid *Maryland* Charter, notwithſtanding the ſaid words of *Hactenus inculta* in the Recital thereof inſerted.

And the Plaintiffs Charge that the Defendant by his ſaid Petition omitted to name the Plaintiffs therein, or their Father, or the ſaid Province of *Penſilvania*, or the ſaid three
367 Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, nor took any Notice of his own ſolemn Agreement of the 10th of *May* 1732, and concealed the whole of his ſaid Agreement, whereby, for ſuch valuable Conſiderations, he had releaſed to the Plaintiffs in Fee the ſaid three Lower Counties by expreſs name, and all his Right, and all his Pretences
368 thereto, and had covenanted to make further Aſſurance of the ſame, and had covenanted, by all means in his Power to ſupport the Intereſt of the Plaintiffs in and to the ſame by Vertue of and under the ſaid Agreement, and alſo concealed every Tittle of the Plaintiffs and their Mother and Father, and the Duke of *York's* Title, and very long and ancient Poſſeſſion of the ſaid three Lower Counties quite from the Year 1664, and the very great Improvements which have, at ſo great an Expence, been ſince made thereon, purely to
369 obtain, from his Majeſty to himſelf, a Grant or Confirmation of the ſaid three Lower Counties, and to turn the Plaintiffs out of their ancient Poſſeſſion and Improvements and undoubted Right, which the Defendant did and doth well know and believe his Majeſty, upon a fair full and true Repreſentation of the whole Caſe, was too good and juſt to do,
371 —although, from any Flaw in the Plaintiffs Title it might legally have been done; which the Plaintiffs humbly inſiſt it could not; and the Crown has never yet diſturbed the Poſſeſſion of *any one Subject whatever*, in *America*, who has been at any Trouble or Expence in ſettling there and cultivating the Country, though many of them, there, have Titles which poſſibly might not bear an exact and ſtrict Examination.

372 And the Plaintiffs Charge that, upon preſenting the ſaid laſt mentioned Petition to his Majeſty, his Majeſty by his Order in Council of the 8th Day of *Auguſt* 1734, was pleaſed to refer the ſame to the Lords Commiſſioners for Trade and Plantations, to examine and conſider the Matters and Facts contained in the ſaid Petition, and report the ſame together with their Opinion to his Majeſty in Council.

And the Defendant never gave any the leaſt Notice of ſuch his ſaid Petition to his Majeſty, or of his Majeſty's ſaid Reference thereof to the ſaid Lords Commiſſioners of
373 Trade and Plantations, unto the Plaintiffs, or unto any one of them, or unto any Perſon whatever in their behalf.

But an Agent, who had *formerly* been concerned in ſome of the Plaintiffs Affairs, received Notice thereof, not from the Defendant or any Agent of his, but from the ſaid Lords Commiſſioners of Trade and Plantations, who, accidentally, in the Courſe of the Buſineſs in their Office, knew that the Plaintiffs, and their Father, had, very long,
374 been in Poſſeſſion of the ſaid three Lower Counties, and had named Lieutenant or Deputy-Governors for the ſame without Intermiſſion.

And the Plaintiffs charge that, thereupon, Application was made to the ſaid Lords Commiſſioners for Trade and Plantations, in the Preſence of the Defendant, in the behalf of the Plaintiffs *John* and *Thomas Penn*, then and ſtill in *America*, and of the Plaintiff *Richard Penn*, then in *Great Britain*, but in the Country, to know, what it was that
375 the Defendant, under ſuch general Petition, prayed for, and to have reaſonable time to apprize all the Plaintiffs thereof in order to make their Defence; in anſwer whereto, the ſaid Defendant himſelf, in expreſs Terms, did declare, in the hearing of ſeveral Perſons, to the ſaid Lords Commiſſioners for Trade and Plantations, that he then petitioned *for a Grant of the ſaid three Lower Counties*, or to the ſame Effect and Purpoſe.

376 And the ſaid Defendant did preſs and inſiſt that time *might not be given* for Notice to the Plaintiffs in *America* (who, only, knew any thing, and they but little, of the beforementioned old Tranſactions) but that the Matters of his ſaid Petition might be heard *forthwith*.

And the ſaid Lords Commiſſioners for Trade and Plantations, not conceiving it Decent to let his Majeſty's ſaid Reference to them lay ſo long unexamined as till the Plaintiffs
377 might have Notice in *America*, and an Opportunity of being heard thereafter, did appoint a Day for hearing the ſame, and did hear the ſame on the 20th and 31ſt Days of *December* 1734, *but thoſe Hearings on one ſide only*, without hearing the Plaintiffs or any Perſon whatſoever on their behalf upon the Merits of the ſaid Petition.

378 At which, and other times, the Defendant, and his Agents by and with his Knowledge, Privity, Conſent and Direction, and in his own Preſence, taking Advantage of the Plaintiffs Abſence, offered to the ſaid Lords Commiſſioners the ſaid *blank* Paper, not purporting to be ever authenticated any way whatever, or to be ſigned by any Perſon, and which
379 had been ſo before offered by his Grandfather in 1684, as a Copy of ſome Report or Order in Council of the 4th of *April* 1638 of the then Committee for Trade and Foreign Plantations; although the Plaintiffs charge there was no ſuch Real Report or Order in Council of the 4th of *April* 1638 to be found, and that his the ſaid Lord *Baltimore*'s ſaid
380 Grandfather, in 1684 and 1685, had, in Perſon, acknowledged that there was no Original thereof, even then, to be found.

But the Plaintiffs at ſuch Hearings on the 20th and 31ſt of *December* laſt, not being heard to Object to the ſaid Paper, nor any Agent authorized by the Plaintiffs then attending
381 the ſaid Lords Commiſſioners of Trade and Plantations, and their Lordſhips not knowing of any Objections that might be made to the ſaid Paper, *took it to be a Real Paper*.

And upon the 16th of *January* 1734, made a Report to his Majeſty in Council, upon the Petition of the Defendant, *founded chiefly, if not entirely, on the ſaid Paper of the 4th of* April 1638.

382 And the ſaid Lords Commiſſioners, in the ſaid Report, have only ſtated ſo much of the Determination made in 1685 as the Defendant had ſet forth in his ſaid Petition.

By which Proceedings, herein before ſtated, of the Defendant and his Commiſſioners, and Agents, both in *America* and *Great Britain*, the Plaintiffs are greatly injured.

383 But the Plaintiffs Charge that the ſaid Report of the 16th of *January* 1734 having been referred, by his Majeſty's Order in Council, to the Right Honourable the Lords of the Committee of his Majeſty's Moſt Honourable Privy Council for Plantation Affairs, their Lordſhips, on the 10th of *May* 1735, heard Council for the Plaintiffs thereupon, and their Lordſhips, afterwards, made a Report to his Majeſty in Council.

Whereupon, by Order in Council, of the 16th Day of *May* 1735 (made upon reading the ſaid laſt mentioned Report) his Majeſty was graciouſly pleaſed to Order that the
384 Conſideration of the ſaid Report of the Lords Commiſſioners for Trade and Plantations of the 16th of *January* 1734, and of two Petitions, preſented in the behalf of the Plaintiffs, and of the Poſſeſſors and Owners of Lands in the ſaid three lower Counties, ſhould all be adjourned, unto the End of *Michaelmas* Term then and now next, that the Plaintiffs
385 might have an Opportunity to proceed, in a Court of Equity, to obtain Relief upon the ſaid Articles of Agreement as they ſhould be adviſed; and that, after the Expiration of the ſaid Term, either Party ſhould be at liberty to apply to the ſaid Committee of Council as the Nature of the Caſe might require; as by the ſaid laſt mentioned Petitions, Orders and Reports, relation being unto them ſeverally and reſpectively had, may more fully and at large appear.

All which Actings, Doings, Miſrepreſentations and other Practices and Proceedings of the Defendant, and of his Confederates, and of his Commiſſioners and Agents, both in
386 *America* and *Great Britain*, are contrary to Equity and good Conſcience, and tend to the manifeſt, apparent, and grievous Wrong and Injury of the Plaintiffs, who are utterly Remedileſs in the Premiſes by the ſtrict Rules of the Common Law, in regard the Plaintiffs Witneſſes, who could prove the truth of all and ſingular the Premiſes to be as herein before ſet forth, are either dead, or in Parts remote, beyond the Seas, and in *America*, and many of them unknown to the Plaintiffs, but the Plaintiffs are properly relievable in
387 this Honourable Court, where they may have the perſonal Oath and Diſcovery of the Defendant touching the Matters aforeſaid, and where Matters of Fraud, Deceit, and ſpecifick Performance of Covenants and Agreements, and Matters of perpetual Injunction, are properly Examinable and Relievable.

Therefore, that the Defendant and his Confederates, when diſcovered, may, upon their ſeveral and reſpective Corporal Oaths, true, full, diſtinct and perfect Anſwer make,
388 and that, according to the beſt of their ſeveral and reſpective Knowledges, Beliefs, and Informations, to all and every one of the Matters, Facts, Charges and Allegations herein before mentioned, as fully and amply as if the ſame were here again particularly repeated and interrogated to, and, more particularly, may anſwer, ſet forth and diſcover, according to the beſt of their ſeveral and reſpective Knowledges, Beliefs and Informations.

And may ſet forth Verbally and Literally, a true Copy of the Words of the ſaid Charter for *Maryland*, as they are reſpectively written at length or abbreviated in the Original
389 Charter under the Great Seal of *England*, from the beginning of the ſaid Charter unto the firſt Habendum *therein*.

And whether the ſaid *William Penn* did not enter into the peaceable Poſſeſſion of the ſaid Province of *Penſilvania* in *June* 1681?

And into the peaceable Poſſeſſion of every one of the ſaid three lower Counties either in *October* or *November* 1682?

And who, from the laſt mentioned times reſpectively, have been in the chief Poſſeſſion and Government of the ſaid Province of *Penſilvania*, and of the ſaid three lower Counties?

390 And who it was that peopled, ſettled, and improved the ſaid Province of *Penſilvania* and the ſaid three lower Counties?

Whether the ſaid *William Penn*, or any Anceſtors of the ſaid Defendant?

And, at whoſe Expence, the ſame was ſo peopled, ſettled, and improved, whether at the ſole Expence of the ſaid *William Penn*, and his Grantees under him, or at the Expence of the Crown, or the Publick, or the Defendant, or any of his Anceſtors?

391 And whether he in his Conſcience believes it was a ſmall, or a very great Expence?

And whether he really believes it was not at more than 60,000 *l.* Sterling, or at what Sum, as he believes in his Conſcience?

And whether the ſaid Province of *Penſilvania*, and the ſaid three lower Counties, do not, at this time, make the moſt flouriſhing and populous Province or Colony, for the Age thereof, throughout all *America*?

And whether the Number of Inhabitants, in the ſaid three lower Counties only, excluſive of *Penſilvania*, are not eſteemed to be more than 40,000?

392 And whether the Defendant, when he lately came out of the Province of *Maryland* into the ſaid three lower Counties, was not ſurprized to ſee how much thicker of Inhabitants, and of beautiful Plantations, the ſaid three lower Counties were, than the ſaid Province of *Maryland* was?

And may ſet forth, at what Place, by Name, and in what Degree and Minute of Latitude, the moſt *Northern* Part of the ſaid *Peninſula* ends, and the moſt *Southern* Part of
393 the Iſthmus or Neck of Land begins, and in and through what Places, by Name, the Line of the 40th Degree compleat does run, and how many *Engliſh* Statute Miles there is, in Diſtance, from the moſt Northern Part of the ſaid Peninſula, to the ſaid Line of the 40th Degree compleat, and which of thoſe two Places lies the moſt Northwards?

And whether there was not ſuch Agreement ſigned and executed, between the Defendant and the Plaintiffs late Mother in the ſaid Year 1723, after the Deceaſe of the Plaintiffs
394 Father, as herein before mentioned, or of what other Purport and Effect, and where the ſame, and each Original Part thereof, now is?

And that the Defendant may ſet forth a true Copy of the ſame, at full length, in the very Words, Figures and Abbreviations as the ſame is in the Original, with the Parties and Witneſſes Names thereto, and all the Atteſtations thereto, and all the Endorſements thereon, in caſe that before ſet forth by the Plaintiffs be not a true Copy thereof?

395 And whether the ſame Agreement was not publiſhed, at full length, in a Proclamation, and when, by the Lieutenant or Deputy Governor of *Penſilvania*, purſuant to one of the Clauſes contained in the ſame Agreement?

And whether the ſame Agreement was, or was not, and if it was, then, when it was, publiſhed by Proclamation by the Governor or Lieutenant, or Deputy Governor of *Maryland*?

And why, and by whoſe Order, the ſame was publiſhed?

396 And whether the Plaintiffs ſaid Mother, or the Plaintiffs have, from the time of the ſaid Agreement of 17th of *February* 1723, to this time, ever, and when, how, and at what times particularly, diſturbed any, and which of the Inhabitants under the Defendant, or moleſted them in their Poſſeſſions?

Or have ſuffered any and what particular Parcels of Lands to be ſurveyed, taken up or granted, either in *Penſilvania*, or in the ſaid three lower Counties, or in any, and which of them, near the Boundaries which had been claimed or pretended to on either ſide?

397 And whether the Plaintiffs ſaid Mother, and the Plaintiffs, reſpectively, did not juſtly and honeſtly fulfill and perform the ſaid Agreement of 1723, on their Parts, according to the true intent and meaning of the ſame, and that, not only during the 18 Months, in the ſame Agreement mentioned for the Continuance thereof, but even after the ſaid 18 Months, until the laſt Agreement was concluded in *May* 1732?

398 And whether the Defendant and his Agents, Commiſſioners and Officers did, or did not, fully and truly, and in all points, perform and fulfil the ſame, or whether it has not been long, and is not to this time, the *uſual*, common and *conſtant Method*, in the ſaid Province of *Maryland*, to make large Grants to Perſons, of a certain Number of Acres, *at large*, without ſpecifying in what particular Spot, Pariſh, Precinct, Diviſion or County the ſame do, or ſhall, lie or be ſituated; and to leave ſuch Grantees at liberty to find
399 out, and ſet down upon, and appropriate to themſelves, under ſuch *Maryland* Grants at large, ſo many Acres as therein ſpecified, juſt in ſuch Places (not before taken up and appropriated) as they can find out, and their own Fancy and Inclination leads them to?

And whether *many* ſuch *Maryland* Grants are not, now, extant, for very large Quantities of Lands at large as aforeſaid, and which have not yet been ſeated upon or appropriated?

400 And whether the Defendant does not know, and verily believe, and has not been credibly informed, that *many* ſuch unappropriated *Maryland* Grants at large are now in the hands of all, or ſome, and which, of the Commiſſioners authorized and appointed on the Part of the Defendant for executing the Agreement of 1732, and in the hands of many, and what, other leading and conſiderable Men in the ſaid Province of *Maryland*?

And

And whether the Defendant does not know, and verily believe, and has not been credibly informed, by many, or by ſome, of ſuch *Maryland* Grantees, and others, and by whom
401 in particular, that ſuch *Maryland* Grantees, or ſome, and which of them, did deſign and intend, by Virtue of ſuch *Maryland* Grants, to ſet down upon and appropriate Lands, which would, or which they apprehended would, by the Agreement in 1732, fall within the Plaintiffs Bounds?

And whether as the Defendant knows, believes, and has been credibly informed, any Diſappointment or expected Diſappointment, in appropriating ſuch Lands, was, or was
402 not, any Motive or Inducement, and to whom, to the not compleatly executing the ſaid Agreement of 1732?

And whether the Defendant did not, in the Year 1731, acknowledge the Plaintiffs Title to the ſaid three lower Counties, and did not apply to them, not to give up to him the ſaid three lower Counties, but to *ſettle the Limits and Bounds of the ſame*, and of the ſaid Provinces of *Penſilvania* and *Maryland*?

403 And whether, upon the Plaintiffs not inſtantly complying with ſuch the Defendant's Requeſt and Application, he did not, thereupon, in order to ſpur the Plaintiffs on, preſent, or cauſe to be preſented, ſuch his Petition to his preſent Majeſty, on the 1ſt of *July* 1731, or any and what other Petition, and to what Effect?

And particularly, whether ſuch laſt mentioned Petition, and the whole Tenor thereof, did not pray and deſire that the *Bounds* might be aſcertained and ſettled *upon the foot*
404 *of the ſaid Orders of Council of* 1685 *and* 1708?

And whether the Defendant himſelf did not, thereby, mean and intend to leave to the Plaintiffs the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*?

And whether, after the ſaid laſt mentioned Petition was preſented, and ſuch Order thereon made as aforeſaid, the Defendant did not, in his own Perſon, apply to ſome, or one,
405 and which of the Plaintiffs, and to ſome and what Agent of theirs, or Perſon concerned for them, and did not, again, preſs and deſire that a Treaty might be ſet on foot for the ſettling and agreeing the *Bounds* and ending all Diſputes between the Plaintiffs and him?

And whether, from the 11th of *June* 1731 to the 10th of *May* 1732, ſuch Treaty and Agreement was not on foot, between him and the Plaintiffs, and many Meetings had
406 between the Plaintiffs and their Agents and the Defendant and his Agents, at many different Places, within that ſpace of time?

And whether, at ſome, and which, of ſuch Meetings, and at what Time and Place, the Defendant, on his Part, did not produce a Map or Plan of the Parts in Queſtion and other adjacent Places, which he himſelf ſaid and acknowledged his Agents had ſent, to him, from *America*, in order to ſettle the ſaid Diſputes?

And whether the Plaintiffs, on their Part, did not alſo produce a Map or Plan of the Parts in Queſtion?

407 And whether the Map or Plan, ſo produced by the Defendant, was not, by him in Perſon, at ſome of the ſaid Meetings, mark'd with a Pencil, in what manner the dividing Lines ſhould run?

And whether the Plaintiffs did not inſiſt that the Head Line of *Maryland* ſhould be not ſo little as 15 Miles, but 20, or at leaſt 18, or 17 Miles, South of *Philadelphia*, which he did not agree to?

408 And whether the Defendant did not inſiſt, and the Plaintiffs agree, that, not the Plaintiffs Map or Plan, but, the ſaid Map or Plan of the Defendant ſhould be engraved, in order to be affixed or annexed to, and to explain the meaning of, the Agreement they ſhould come to?

And whether the Defendant did not, at the ſaid Meetings oppoſe the Perſon the Plaintiffs propoſed to engrave the Defendant's Map or Plan, and name and inſiſt that Mr. *Senex* ſhould do the ſame?

409 And whether the Plaintiffs did not conſent thereto, and whether the ſaid *Senex* did not engrave the ſame, and was jointly paid for ſo doing, by the Plaintiffs and Defendant?

And whether the ſaid engraved Map or Plan of the Defendant was not printed or ſtamped on the Original Articles of Agreement, afterwards executed on the 10th of *May* 1732?

410 And whether there is *any, and what Material Difference*, between the Map or Plan ſo produced by the Defendant, and that printed or ſtamped on the ſame Original Articles of Agreement of 1732?

And whether the Defendant, at a Meeting between him and the three Plaintiffs, or ſome of the ſaid three Plaintiffs, upon the 22d of *July* 1731, or at any and what other time, did not produce, out of his own Pocket, a written Paper, written of his own proper Hand-Writing, and read the ſame to the Plaintiffs, as his own Note or Propoſal of what was
411 to be agreed and done between the Plaintiffs and him?

And what was and were the true Contents thereof, and may ſet forth an exact, full and true Copy thereof, at full length, in the very Words, Figures, Letters, and Abbreviations thereof?

And particularly, whether, in two ſeveral Parts thereof, the ſaid *Charles* Lord *Baltimore*, did not *expreſsly* mention that the Circle, round *Newcaſtle*, was to be 12 Miles *from Newcaſtle*, and 12 Miles *diſtant from Newcaſtle*?

And whether that was not, in the Month of *July* 1731, *his own* real intention and meaning?

412 And whether he in his Conſcience does believe that running a Circle at the Diſtance of only *two* Miles, or leſs, from *Newcaſtle*, is, in any ſort, according to his ſaid own Propoſal?

And whether the Plaintiffs or their Agent did not, at the ſaid Meeting upon the 22d of *July* 1731, deſire of the Defendant to deliver to them the ſaid Note or Propoſal of the
413 ſaid Defendant, or a Copy thereof, in order to prepare the written Agreement at full length purſuant thereto?

And whether the Defendant did not, then, expreſs himſelf that he had not, at that time, any Copy thereof, but that he would deliver the ſame to his Sollicitor in order to give the Plaintiffs a Copy thereof?

414 And whether the Defendant did then inſtantly deliver the ſame over to Mr. *John Sharpe* the Sollicitor for the Defendant, for the very purpoſe of aſſiſting to prepare the ſaid Agreement at full length, and of giving the Plaintiffs a Copy of the ſaid Note and Propoſal in order thereto?

And whether the Defendant did not then, at the ſaid Meeting, conſent and direct that the ſaid Mr. *Sharpe* ſhould give the Plaintiffs a Copy thereof, and whether, in ſome few
415 days afterwards, the ſaid Mr. *Sharpe* did not give to the Plaintiffs a Copy thereof, as the ſaid Defendant has heard, believes, and been informed?

And that the Defendant may ſet forth where the ſaid Original Note or Propoſal is, and may produce the ſame at the hearing of this Cauſe?

And whether, upon the 16th Day of *Auguſt* 1731, or when elſe, the Plaintiffs or their Agent, did not deliver over to the Defendant, or his Agent, a Draught of Articles of
416 Agreement between the Defendant and the Plaintiffs, prepared upon the foot of the Defendant's own Note and Propoſal before mentioned, in order to be conſidered and ſettled by the Defendant and ſuch other Perſons as he ſhould think fit to make uſe of, or adviſe with therein?

And whether ſuch Draught of Articles of Agreement was not, conſtantly and continually, from the ſaid 16th Day of *Auguſt* 1731, to the Beginning of *May* 1732, or for how
417 much of the ſaid time, in the Cuſtody, and under the Conſideration and Examination, of the Defendant, and of Mr. *Wynne* his Council, Mr. *Sharpe* his Sollicitor, Mr. *Senex* his Mathematician, and Mr. *Ogle* his Lieutenant, or Deputy Governor of *Maryland*, and divers others, and who by Name, made uſe of by the Defendant to aſſiſt and help him in ſettling the ſame?

418 And whether the Defendant, during ſuch time taken for the Examination, Conſideration and Settlement of the ſaid Draught, did not propoſe and inſiſt on ſeveral, and what, and how many, new and different things to be provided for and inſerted in the ſaid Draught, which had not at that time been inſerted in the ſaid Draught, nor in the Defendant's own Note and Propoſal, nor had ever once been propoſed, or talk'd of, during the Treaty between the Plaintiffs and Defendant?

419 And whether the Plaintiffs did not, at his Requeſt, conſent and agree *to every one* of ſuch his new Propoſals, or After-thoughts?

And particularly, whether he did, or did not, inſiſt on all and every the Matters and Things herein before for that Purpoſe mentioned, or any and which of them?

And whether, in the Treaty in order to the ſaid Articles of Agreement of *May* 1732, *any one Matter* or Thing, whatſoever, propoſed or inſiſted on by the Plaintiffs, was yielded or agreed to by the Defendant?

420 And whether, on the contrary, every *Matter* and Thing whatſoever, which was propoſed or inſiſted on by the Defendant, was not yielded and agreed to by the Plaintiffs?

And that the Defendant may ſet forth all and every the Particulars, which he had inſiſted on at any time during the ſaid Treaty, which were not agreed to by the Plaintiffs, and alſo, all and every the Particulars which the Plaintiffs inſiſted on, at any time during the ſaid Treaty, which were agreed to by the Defendant?

421 And whether the ſaid Draught of the ſaid Agreement, after the ſame was ſettled by the Defendant and every one of his before-mentioned Agents, Aſſiſtants and Adviſers to his own Satisfaction, was not engroſs'd, and was not executed by the Defendant and the Plaintiffs on the 10th Day of *May* 1732?

And whether, ſoon after ſuch the Execution of the ſaid Articles of Agreement, namely, on or about the 12th Day of the ſame *May*, the Plaintiffs and Defendant did not, ſeve-
422 rally and reſpectively, execute ſuch ſeveral Commiſſions as before mentioned, authorizing 7 Commiſſioners therein named, or any 6, 5, 4, or 3 of them, to mark, run and lay out the Bounds ſo agreed upon?

And whether the ſaid Commiſſion, ſo executed by the Defendant, and that ſo executed by the Plaintiffs, were not, exactly like and agreeable, each to the other, in Form and
423 Subſtance, and were not *both* engroſs'd from one and the ſame Draught or Copy, only changing the Names and Additions of the Perſons who granted the Powers and Authorities thereby given, and to whom the Powers and Authorities were granted?

And whether ſuch Commiſſions were not, reſpectively, ſent over to *America*, and whether, on the Requeſt of the Plaintiffs Commiſſioners, the Meetings, between the Plaintiffs Commiſſioners and thoſe for the Defendant, were not begun, at *Newtown* in *Maryland*, on the 6th Day of *October* 1732, and were not continued, adjourned, and held again, at
424 all and every the Times and Places herein for that purpoſe mentioned, down to and upon the 24th of *November* 1733, being near 14 Calendar Months?

And whether, at thoſe Meetings between the ſaid Commiſſioners, all and every of the Matters and Things herein before mentioned did not paſs, and were not Tranſacted, at the Times, in the Manner, by the Perſons, and with the Views and Deſigns, herein before mentioned and ſet forth, or with any, and what other Views, Intents and Deſigns, ſeverally and reſpectively.

425 And particularly, that the Defendant may, upon his poſitive Oath, ſay for how long, during the ſaid Meetings between the ſaid Commiſſioners, he the ſaid Defendant was in *America*, and in or near to the Province of *Maryland*?

And whether his Commiſſioners did, or did not, make all and ſingular the Cavils and Objections herein before mentioned, or not?

And whether he the Defendant was knowing of, or privy to, the ſame, or to any and which of them, or not?

426 And whether he, at that time, adviſed, conſented to, directed, approved of, or was acquainted with, any and which of the Doubts, Scruples and Objections, or *pretended* Doubts, Scruples and Objections, made by his ſaid Commiſſioners at ſuch Meetings, or any and which of them?

And if the Defendant does not know, and in his Conſcience believe, and has not been credibly informed, that it was the Intention and Reſolution of all the Commiſſioners by
427 him appointed as aforeſaid, or of ſome and which of them, and who by Name, to defeat and prevent the running out the Lines aforeſaid agreed upon by the ſaid Articles?

And whether the ſaid Commiſſioners, or ſome other Perſon or Perſons, did not, after the Execution of the ſaid Engroſs'd Articles of the 10th of *May* 1732, endeavour to per-
428 ſuade the Defendant not to compleat and perform the ſame?

And whether he, himſelf, was not, by ſome means or other, brought or induced to wiſh and deſire, or intend, that the ſaid Agreement might, or ſhould not, be carried into Execution.

And whether the Defendant ever, and when, did conſult, converſe or adviſe with any, and what, other Perſon or Perſons, and when, and where, how the Execution of the ſaid Agreement of *May* 1732 might be avoided or evaded, but ſo, as not to forfeit the Penalty or Sum or 5000*l.* therein mentioned?

429 And whether the ſaid Commiſſioners of the Defendant, or any and which of them, or who elſe, did Object to the *want of Parties* in the Commiſſion to the Plaintiffs Commiſſioners, and did raiſe ſuch Objections and Difficulties to the making or fixing *a Center* for the ſaid Circle, and to the *Diſtance* that the ſaid Circle was to be from the Town of *Newcaſtle*, or not?

And whether ſuch Objections were made, or inſiſted on, with the Privity, Conſent, Direction or Good-liking, of the Defendant?

430 And whether he did, and does, approve of all the Proceedings of his Commiſſioners, herein beforementioned, or what and which Parts of the ſame he did, and does, Diſlike and Diſapprove of?

And whether the Defendant does know, or in his Conſcience believe, that his Commiſſioners acted, in all things, with that Candour, Fairneſs and Diſpatch, which he himſelf intended and agreed they ſhould do at the time when he executed the ſaid Agreement on the 10th of *May* 1732.

431 And whether the Defendant is, or is not, willing and deſirous that the ſaid Agreement of the 10th of *May* 1732 ſhould be executed, fulfilled and performed, according to the true intent and meaning of the ſame, *or why he is not?*

And, at what *Diſtance from the Town* of *Newcaſtle* he himſelf do's inſiſt the Circle, or part of a Circle, was agreed to be run, and ought to be run, and whether, at the ſeveral
432 times of his producing and reading his ſaid Note or Propoſal, and alſo of executing the ſaid Agreement on the 10th of *May* 1732, he meant, or intended, that the ſaid Circle, or part of a Circle, ſhould be at the Diſtance of two Miles *only*, or of ſomewhat leſs, or at the Diſtance of 12 Miles, from the ſaid *Town* of *Newcaſtle?*

And may ſet forth whether Commiſſioners on each ſide, proceeding with Fairneſs, Candour, and Diſpatch, and having no Difference of Judgment ariſing between them, might
433 not, within the Space of four Weeks, at a proper Seaſon of the Year, mark and run out ſo many, and ſo much of the Circle and Lines, mentioned in the ſaid Agreement of *May* 1732, as were thereby agreed to be run and mark'd out; or, in what length of time the ſame might, at a convenient Seaſon of the Year, be done, if no Delay, or Difference of Judgment, happened therein.

And whether the Defendant did not preſent, or cauſe to be preſented, to his preſent Majeſty, in his own Name, ſuch Petition as herein before mentioned, upon the 8th of *Au-*
434 *guſt* 1734, or any and what other Petition, and for what Purpoſe.

And

And whether he did not, in Perſon, before the Lords Commiſſioners for Trade and Plantations, expreſsly declare that he meant and intended, by his laſt mentioned Petition, to pray his Majeſty for a Grant of the three lower Counties, and did not in ſuch Words mean the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*.

435 And why, and with what Views and Deſigns, in his ſaid Petition, he mentioned neither the Plaintiffs, nor their Father, nor the ſaid Province of *Penſilvania*, nor the ſaid three lower Counties by Name, nor ſet forth therein any thing at all relating to the ſaid Agreement of *May* 1732, and why he aſſerted therein that there was ſuch a Report or Order in Council of the 4th of *April* 1638 relating to the ſaid *William Clabourne* and the Iſle of *Kent*, when his Grandfather had in Perſon declared, about 50 Years before, that there was

436 no ſuch Original Order?

And why, in inſerting in his laſt mentioned Petition the Account of what was done in the Year 1685 as aforeſaid, he omitted and concealed thoſe very material Words, in the *Heart* of the Report of the then Committee for Trade and Foreign Plantations, which imported *that the Tract of Land then in Diſpute had ever ſince from the Date of the ſaid*

437 *Patent for* Maryland *in* 1632 *been inhabited and planted by Chriſtians and had continued as a Diſtinct Colony from that of* Maryland?

And why he concealed, in his ſaid laſt mentioned Petition, the *old Poſſeſſion*, and *great Improvements*, made by and under the Plaintiffs and their ſaid late Father?

And whether the Defendant did not, and doth not, think, and in his Conſcience believe, that thoſe Facts, ſo by him omitted and concealed in his ſaid Petition, were true, and proper and material Facts to be laid before his Majeſty and his Miniſters, or not?

438 And whether the Plaintiff *John Penn* was not gone for *America*, at the time the Defendant preſented the ſaid laſt mentioned Petition to his Majeſty?

And whether the Defendant did not propoſe and expect ſome Advantage to himſelf, by the Abſence of the Plaintiffs *John Penn* and *Thomas Penn*?

And whether the Defendant did preſent the ſaid laſt mentioned Petition to his Majeſty in order to obtain a Grant of the ſaid three lower Counties *for himſelf*, and for his own

439 Uſe, Benefit, and Advantage, or, for the Uſe and Benefit of the Plaintiffs and as a Truſtee for them?

441 And in Caſe he meant and intended and hoped to obtain a Grant of the ſame for himſelf, that the Defendant may ſet forth why, and for what Reaſons, he never gave the leaſt Notice of ſuch his laſt mentioned Petition to the Plaintiffs, or any of them, or any Agent of theirs, but carried on the ſame *privately* and wholly unknown to the Plaintiffs.

And whether there have not been ſuch Orders, Proceedings, Petitions and Reports, founded on the ſaid laſt mentioned Petition of the Defendant, as are herein before mentioned

442 and ſet forth, or what others, and to what Effect and Purpoſe?

And whether the Defendant does admit that the ſaid Agreement of the 10th of *May* 1732 does now exiſt, and ſubſiſt in full Force and Virtue, or whether he does inſiſt that the ſame is abſolutely void?

And, in Caſe he inſiſts that the ſame is void, that, then, he may ſet forth, minutely, exactly and particularly, why, and for what Reaſons, he inſiſts the ſame is void?

443 And that the Defendant may ſet forth and diſcover whether it is not as eaſy and as practicable (in a proper Seaſon of the Year) *now* to run, mark and lay out the Bound-Lines, agreed upon by the ſaid Articles of the 10th of *May* 1732, as it was between the Month of *October* 1732 and *Chriſtmas* 1733, or what *new* Difficulties have, ſince the laſt men-

444 tioned time, ariſen to make that Work more Difficult, or leſs Practicable, now, than at that time?

And how long Space of Time, as he believes, would be really neceſſary for Commiſſioners, that would proceed with Fairneſs, Candour and Diſpatch, to run out all the ſeveral Lines and Bounds purſuant to the ſaid Agreement of *May* 1732, in caſe no Difference, or pretended Difference, in Judgment aroſe between them?

Relief prayed.

1. And that the Plaintiffs may be at liberty to examine their Witneſſes, whom they charge are very aged and infirm and likely to die, to *perpetuate their Teſtimony*,

445 2. And that the Plaintiffs may be *quieted in the Poſſeſſion* of the three lower Counties, which have ſo often as aforeſaid been adjudged not to be compriſed within the Bounds granted as above mentioned to the ſaid *Cecilius* Lord *Baltimore*, by that Juriſdiction which, in the laſt reſort, determines all Queſtions concerning Property in any of his Majeſty's Plantations in *America*,

446 3. And that the Defendant may be decreed to *deſiſt from giving them any further Trouble*, or Moleſtation by renewing the ſaid old, and heretofore often over-ruled, Claims to the ſame,

4. And that the ſaid recited *Articles* of Agreement, of the 10th of *May* 1732, may *be decreed* and declared to exiſt and *ſubſiſt and to be in full Force and Virtue*,

5. And may be *decreed to be* forthwith *ſpecifically performed*, and to be carried into full Force and Execution, in all Points and Reſpects whatever,

447 6. And that all neceſſary and *proper Directions* may be given, in order thereto (the Plaintiffs hereby offering to do every thing which ſhall be adjudged neceſſary, on their Parts, in order to the ſame,)

7. And that the ſaid pretended *Doubts*, as to the fixing *a Center* for the ſaid Circle round the ſaid Town of *Newcaſtle*, and as to the *Dimenſions of the ſaid Circle, or Diſtance from the ſaid Town*, at which it is to be marked out, and *any other Doubt*, or pretended Difficulty, that the Defendant hath, or pretends to have, relating to the ſaid Articles of Agree-

448 ment, or any thing therein contained, or the Execution and Performance of the ſame, may be removed and cleared up, by the Authority and Decree of this Court (the Plaintiffs hereby Offering to fix the ſaid Center in the *Middle* of the ſaid Town of *Newcaſtle*,)

8. And that the Defendant may *now*, inſtantly, *and* may, *again*, after the ſaid Lines and Bounds ſhall be run, mark'd and laid out, in a more certain and particular manner,

449 purſuant to his Covenants and Agreements in the ſaid recited Articles of Agreement contained, *make further* and better *Aſſurances* and Conveyances to the Plaintiffs, their Heirs and Aſſigns of the ſaid Province of *Penſilvania*, and of the ſaid three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, to be bounded, and bounded, according to the true Intent and Meaning of the ſaid Articles of Agreement of the 10th of *May* 1732, and of all his Right, Intereſt, Pretenſions, Claim and Demand in and to the ſame; ſuch Conveyances and Aſ-

450 ſurances to be ſettled, in caſe the Parties differ about the ſame, by a Maſter of this Honourable Court (the Plaintiffs hereby offering, on their Parts, to make *reciprocal Aſſurance* and Conveyances of the ſaid Province of *Maryland*, to be ſo bounded as aforeſaid, and of all their Right, Intereſt, Pretenſions, Claim and Demand in and to the ſame, unto the Defendant, his Heirs and Aſſigns,)

9. And that the Defendant may be decreed to pay to the Plaintiffs all the *Coſts and Expences, of their ſaid Commiſſioners*, and otherwiſe, relating to the executing the ſaid Agreement

451 of *May* 1732, and *likewiſe all the* Coſts which the Plaintiffs have been, any way, put to, by reaſon of the Breach and Non-Performance on the Part of the Defendant of the ſaid recited Articles of Agreement of *May* 1732, and by reaſon of the ſaid Petition of the Defendant preſented to his Majeſty on the ſaid 8th of *Auguſt* 1734,

452 10. And that the Plaintiffs may have all ſuch *further and other Relief*, in the Premiſes, and in ſuch *other* manner, as ſhall be conſiſtent with Juſtice and Equity.

11. And may have *a perpetual Injunction*, to quiet the Plantiffs, and their Grantees, Tenants and Occupiers, claiming by Titles under the Plaintiffs, or under thoſe from whom the Plaintiffs claim and derive Title as aforeſaid, in the peaceable Poſſeſſion and Enjoyment of the ſaid Province of *Penſilvania*, and the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, to be bounded, and bounded, as aforeſaid,

12. And to have Writs of Injunction, and Writs of Subpœna.

Is the Bill.

1735. *May* 16. The Order in Council was made, at leaſt giving leave, if not directing, that ſuch a Bill ſhould be brought.
June 21. In five Weeks time afterwards, this very long Bill was drawn and filed.
25. The Defendant was ſerved with an Office Copy of the Bill and a Subpœna to Anſwer.
July 1. The Plaintiffs obtained an Order for a Sequeſtration unleſs Cauſe, for want of an Appearance.
29. The Plaintiffs obtained another Order for a Sequeſtration unleſs Cauſe, for want of an Anſwer.
Aug. 2. The Defendant moved and obtained an Order to refer our Bill for Scandal and Impertinence.
Oct. 11. The Plaintiffs moved and obtained an Order that the Maſter ſhould proceed on that Reference *de die in diem*.
1736. *May* 25. Maſter *Eld* reported our Bill not Scandalous nor Impertinent.
Dec. 18. The Plaintiffs obtained an Order to amend, and did amend, their Bill.
1737. *June* 15. The Defendant, above two Years after the Bill filed, put in his Anſwer, having ſpun out that time by his Reference for Scandal and Impertinence, and by Privilege of Parliament.

Defendant's Anſwer, } *ſworn* 15 June 1737. } 3

BELIEVES that there is, in *America*, a certain Tract of Land or Peninſula, ſhooting out from the main Continent, Southward, unto the *Atlantick* Sea or Ocean; and, for ought this Defendant knows to the contrary, and as this Defendant has heard and believes, the ſaid Peninſula or Tract of Land is bounded, on the Weſt, Eaſt, South, and North Sides thereof, as in the Bill is for that Purpoſe particularly ſet forth and deſcribed.

Hath heard, and believes it may be true, that the great River or Bay of *Delaware*, in the Plaintiffs ſaid Bill mentioned, runs between the ſame Peninſula or Tract lying on the Weſt Side thereof, and the Territory now called *Weſt-New-Jerſey* lying on the Eaſt part thereof.

4 And that the ſaid *Weſt-New-Jerſey* might be, heretofore, called, ſucceſſively, *New-Belgia*, *New-Netherlands*, and *New-England*, as in the Bill is alledged.

But ſaith that he doth not know, nor can he ſet forth, by whom the ſaid Peninſula, or Tract or Parts contiguous thereto, were firſt diſcovered, or the time *when* they were firſt diſcovered; nor whether Capt. *John Smith*, an *Engliſhman*, in the Bill named, was the *firſt* Diſcoverer thereof, about the time in the Bill for that purpoſe mentioned, or at any

5 other, or what time; never having ſo much as heard the ſame, or had any Account of the ſaid Capt. *Smith*'s being the firſt Diſcoverer thereof, ſave from the Bill.

Nor can ſet forth whether the ſaid Capt. *Smith* did, or did not, give or affix Names to ſeveral, or any, of the Places on that part of the main Continent which lay over againſt

6 the ſaid Peninſula on the Weſtern Side of the Bay of *Cheſapeake*, as in the Bill is ſet forth; the Defendant, if Capt. *Smith* ſo did, being an entire Stranger thereto, not having ever heard of the ſame ſave by the Bill.

Doth not know, nor can ſet forth, whether the ſaid Capt. *Smith*, at any time after his return from his pretended Voyage in the Bill mentioned, did, or did not, cauſe to be

7 printed and publiſhed a Book, giving any Account of his Voyages and Diſcoveries, as in the Bill is alledged; nor, if the ſaid Capt. *Smith* did cauſe ſuch Book to be printed and publiſhed, whether ſuch Book was printed in or about the *time* in the Bill for that purpoſe mentioned, or at any other time, or when, or whether he annexed to ſuch Book a Map or Plan of the ſaid Peninſula, or of any of the adjacent Parts of what was then called by the general Name of *Virginia*, or whether he intitled his Book as in the Bill is for that purpoſe particularly mentioned and ſet forth.

8 Though he hath heard and believes *there is ſuch a Book* extant, and in print, as is deſcribed by the Bill, and therein alledged to have been printed and publiſhed by the ſaid Capt. *Smith*; but as the ſame purports, and appears, from the Title thereof, as ſtated and ſet out in the Bill, to have been printed and publiſhed now upwards of 100 Years ſince,

9 cannot take upon him to ſay, or ſet forth, whether the ſame was ſo printed and publiſhed by the ſaid Capt. *Smith* at the time, or in the manner, in the Bill mentioned, or, whether the ſame was not printed and publiſhed by any other Perſon, under Colour of the ſaid Capt. *Smith*'s Name, and without his Knowledge or Conſent; in order to give the better Authority to the ſaid Book, and to promote the Sale thereof for the Benefit of the Author, or Publiſher thereof.

10 But, whether the ſaid Book is a well known Book among Hiſtorians, Geographers and Mathematicians, or of what Authority or Eſteem the ſame may be in amongſt them, nor whether the ſaid Book and the Map of *Virginia* therein contained, are held in any, or what, Eſtimation amongſt learned Men, nor whether the ſame are by them, or any one elſe, reckoned and eſteemed as the *firſt* and earlieſt Account and Deſcription, or Map, ever given of thoſe Parts in and near to the ſaid Peninſula by any *Engliſhman* whatſoever, as

11 in the Bill is ſuggeſted, this Defendant doth not know, nor can ſet forth; this Defendant having but very little Knowledge of the ſame himſelf, and never having heard much concerning the ſame.

Nor can this Defendant ſet forth whether the ſaid Map of *Virginia*, thereto annexed, contained the Degrees of Longitude and Latitude according to the beſt Obſervations and Diſcoveries *then* made.

But ſaith he hath been credibly informed, and believes, that the ſaid Map hath been, many Years ſince, found by Experience, to have been, in many reſpects, faulty and er-

12 roneous, and by no means a true or correct Map thereof, and in no wiſe to be depended upon.

And is adviſed and apprehends that all this Part of the Plaintiffs Bill, touching who was the firſt Diſcoverer of the ſaid Peninſula, and in relation to the ſaid Capt. *Smith*, and the ſaid Book and Map pretended to be publiſhed by him, are wholly immaterial, and no ways relative to any of the Matters in Queſtion in this Cauſe.

13 Believes it to be true that the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, in the Bill deſcribed and mentioned, are ſituate *on the Eaſtern* Side of the ſaid Peninſula or Tract, and alſo *above* the Peninſula or Tract, within the main Land or Continent, and, towards the Sea and the Eſtuary of *Delaware*, as in the Bill is ſet forth.

But denies that he either knows, or believes, or hath ever heard, that the ſaid three Counties have been *ever* called, or went under the general Name of, the Territories belong-

14 ing to *Penſilvania*; the ſaid Counties, or any Part of them, or either of them, having never, to the beſt of this Defendant's Knowledge or Belief, been looked upon, or eſteemed,

to be any Part of, or to belong to, *Penſilvania*, or the Territories thereof, by any other Perſons than the Family of the *Penns* themſelves, and their Dependants and Adherents, whoſe Intereſt it was to endeavour to have them thought or eſteemed Part of *Penſilvania*.

15 Nor does this Defendant know or believe, nor did he ever hear, ſave from the Family of the *Penns*, and their Dependants and Adherents, and ſave from the Bill, that the Territories belonging to *Penſilvania* did, or could, or does, ſignify and mean, or comprehend, or include, the ſaid three lower Counties, or any part of them or either of them.

Doth not know, nor can ſet forth, whether the ſaid three lower Counties were ever called or comprehended under the Name of the Settlement on *Delaware*, or by the Name
16 only of *Delaware*, or at other times by the Name of the Province of *Delaware*, this Defendant having never heard the ſame ſo called, or called by any other Name or Names than the three lower Counties on *Delaware*, or the Counties of *Newcaſtle*, *Kent*, and *Suſſex*, and if they ever were called, or comprehended, under the Names in the Bill mentioned, this Defendant believes it muſt have been a great many Years ago, and in the Infancy of their Settlement, and before any conſiderable Parts thereof were inhabited or cul-
17 tivated; nor is at all Material, in the Judgment and Belief of the Defendant, by what Name or Names they may have been called.

Denies that he either knows, or ever heard, otherwiſe than by the Bill, or believes, that the ſaid three lower Counties on *Delaware*, of *Newcaſtle*, *Kent*, and *Suſſex*, were, of very early and ancient Times, the beginning whereof is not known (as is pretended by the Bill) ſettled, planted and inhabited by Chriſtians of the *Swediſh* Nation, or that the ſame
18 were afterwards held and inhabited, for many Years, by Chriſtians under the Dominion of the States General of the *United Provinces*, in the manner as in the Bill is for that purpoſe ſet forth and mentioned.

But, on the contrary, hath always underſtood and believes, the ſame were *not* ſettled, planted and inhabited by Chriſtians at any time before, or until after, the Grants thereof to this Defendant's Anceſtor by his Majeſty King *Charles* the Firſt, as herein after is more particularly ſet forth.

19 But ſaith he hath heard and believes that ſome few itinerant *Swediſh* and *Dutch* Traders did, now and then, viſit, and reſort to, ſome ſmall and inconſiderable Part of the ſaid three Counties, antecedent to the ſaid Grant; but never heard, or believes, that the ſaid *Swedes* or *Dutch*, or any other Chriſtians whatever, had ever formed, or made, any abiding Settlement there before the ſaid Grant thereof to the Defendant's ſaid Anceſtor as herein mentioned; all the Chriſtians there being only a few *Swediſh* and *Dutch*, ſtraggling,
20 itinerant Traders, that now and then reſorted to part of the Skirts or Borders of the ſaid Counties, for the Benefit and Conveniency of Trade with the Natives.

And is adviſed, and conceives, it is wholly immaterial, as to any Queſtion that can ariſe between him and the Plaintiffs, whether the ſaid Tract of Land was, or was not, inhabited by Chriſtians antecedent to the ſaid Grant.

21 Neither knows, believes or ever heard, ſave from the Plaintiffs or their Agents, and the preſent Bill, that the ſaid Counties have, ever ſince the Year 1663, been in the quiet Poſſeſſion of the late *James* Duke of *York*, and of the Plaintiffs Father, and of the Plaintiffs in their own Right, as is untruly alledged in and by the Bill, or that the Complainants have now any *Right* to the Poſſeſſion thereof.

22 On the contrary, ſaith, he this Defendant, ever ſince he came of age, and his Anceſtors, before him, as he hath heard and believes, have, all along, ever ſince the Grant of the ſaid three Counties to his Anceſtor as aforeſaid by King *Charles* the Firſt, and both before, and after, the ſaid Year 1663, from time to time, aſſerted, ſupported and maintained, to the utmoſt of their Ability and Power, the *Right* and *Title* to the Poſſeſſion of the ſaid three Counties; and this Defendant's ſaid Anceſtors did, and exerciſed, *Acts*
23 of Ownerſhip thereon, and received Rents from ſeveral of the Tenants and Inhabitants thereof, and were at very great Expences and Charges in Improving and Cultivating the ſame, and in *driving out*, and defending themſelves from, the barbarous *Indians* and Natives that firſt inhabited there, before the ſame was known or found out by any Chriſtian Settlers, to the Knowledge or Belief of this Defendant.

Saith that, in or about the Year of our Lord 1632, *Cecilius*, then Baron of *Baltimore*, did petition his late Majeſty King *Charles* the Firſt, praying leave to tranſport a Colony of
24 the *Engliſh* Nation into *America*, and believes it may be true that the ſaid *Cecilius*, then Lord *Baltimore*, might, in his ſaid Petition to King *Charles* the Firſt, ſuggeſt that the parts of *America*, he ſo prayed to have Liberty to tranſport an *Engliſh* Colony into, was *not then cultivated* and planted, though in certain Parts thereof inhabited by certain barbarous People having no Knowledge of Almighty God, and, therefore, beſought his Majeſty to Give and Grant to him, the ſaid *Cecilius*, and his Heirs for ever, all ſuch *the*
25 *ſaid* Country in his ſaid Petition mentioned, with certain Priviledges and Juriſdictions for the Government thereof, as in the Plaintiffs ſaid Bill is for that purpoſe ſet forth and mentioned; but this Defendant, having never ſeen ſuch Petition, cannot, with any certainty, anſwer or ſet forth whether the ſame was ſo or not, though, from the Words of the Grant, made upon ſuch Petition, and herein after particularly ſet forth, this Defendant believes the Plaintiffs Allegations in their ſaid Bill, with reſpect to the ſaid Petition of
26 the ſaid *Cecilius* then Baron of *Baltimore*, may be true.

Likewiſe admits that, thereupon, his late Majeſty King *Charles* the Firſt, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter* the 20th Day of *June*, in the Year 1632, did Give and Grant, unto the ſaid *Cecilius*, in Fee, *two ſeveral Tracts* of Land, namely, *one Tract* which was part of the before-mentioned Peninſula, and *one other* Tract of Land which was part of the *Main Land*, lying Weſtward of the ſaid Peninſula, and on the Weſt ſide of the ſaid Bay of *Cheſopeake*; the reſpective
27 Buttals and Boundaries of which ſaid two ſeveral Tracts of Lands, ſo granted to the ſaid *Cecilius*, by the ſaid Letters Patent of his Majeſty King *Charles* the Firſt, are particularly ſet forth and deſcribed in the ſaid Letters Patent under the Great Seal of *England*, now in Defendant's Cuſtody and ready to be produced as this Honourable Court
28 ſhall pleaſe to direct; and which Letters Patent, as the Plaintiffs by their Bill have required this Defendant to ſet forth the ſame verbally and literally from the beginning thereof unto the firſt *Habendum* therein, this Defendant ſaith he hath, accordingly, herein ſet forth the ſame; and likewiſe, in regard that the *Habendum* or granting part of the ſaid Grant tends to explain the firſt or the reciting Part thereof, which cannot be ſo clearly or ſo well underſtood, without the *Habendum*, this Defendant hath, therefore, ſet forth
29 the ſaid Grant or Letters Patent, Verbatim, down to the end of the *Habendum*; the ſame, to the beſt of this Defendant's Knowledge, Examination and Belief, being verbally and literally, and the Words of the ſaid Original Charter reſpectively written *at* length and abbreviated, as follows (*Viz.*)

Rex, *&c.* Omnibus ad quos, *&c.* Salutem. Cum perdilectus et perquam fidelis ſubditus noſter, *Cecil Calvert*, Baro de *Baltimore* in Regno noſtro *Hiberniæ*, filius & hæres *Georgii Calvert* Militis, nuper Baronis de *Baltimore* in eodem regno *Hiberniæ*, patris inhærens veſtigiis laudabili quodam et pio Chriſtianæ religionis pariter, & imperii noſtri territor' dilatandi ſtudio flagrans, licentiam noſtram, ut copioſam Anglicanæ gentis Coloniam, induſtria & impenſa ſua, ad certam quandam regionem, *inferius deſcribendam*, in
30 terra quadam, in partibus *Americæ*, *hactenus inculta*, & barbaris nullam divini Numinis notitiam habentibus in partibus occupata, deducere poſſit, totamque *illam* regionem, cum certis quibuſdam privilegiis, & juriſdictionibus, ad coloniæ ſuæ, & regionis prædictæ ſalubre regimen & ſtatum pertinentibus, a regia noſtra celſitudine, ſibi & hæredibus ſuis
31 dari, concedi & confirmari, humiliter ſupplicaverit; *Sciatis igitur* quod nos, pium et nobile, præfatorum Baronum de *Baltimore*, propoſitum & ſtudium, regio favore proſequentes, ex gratia ſpeciali, certa ſcientia & mero motu noſtris, dedimus, conceſſimus & confirmavimus, & per hanc præſentem chartam noſtram, pro nobis, hæredibus & ſucceſſoribus noſtris, præfato *Cecil'* modo Baroni de *Baltimore*, & hæredibus & Aſſignatis ſuis, damus, concedimus & confirmamus *Totam illam partem peninſulæ*, ſive cherſoneſus, jacentis in partibus *Americæ*, inter *oceanum* ex oriente, & Sinum de *Cheſopeake* ab occidente, a reſid' ejuſdem, per rectam lineam a promontorio ſive capite terræ vocato *Watkin's*
32 *Point* juxta ſinum prædictum prope fluvium de *Wighco*, ſcituat' ab occidente, uſque ad magnum oceanum, in plaga oriental' ductam, diviſam; Et, *inter* metam illam a meridie, *uſque ad partem illam æſtuarii de* Delaware, *ab aquilone*, *quæ ſubjacet quadrageſimo gradui latitudinis Septentrionalis*, ab æquinoctiali, *ubi terminatur Nova Anglia*; Totumque illum terræ tractum, *infra metas ſubſcriptas*; Viz. tranſeundo, a dicto æſtuario vocato *Delaware Bay*, recta linea, per gradum prædictum, uſque ad verum meridianum primi fontis fluminis de *Pattowomack*, deinde, vergendo, verſus meridiem, ad ulteriorem dicti fluminis ripam, &, eam ſequendo, qua plagam occidentalem & me-
33 ridionalem ſpectat, uſque ad locum quendam, appellatum *Cinquak*, prope ejuſdem fluminis oſtium ſcituatum, ubi in præfatum Sinum de *Cheſopeake* evolvitur, ac, inde per lineam breviſſimam, uſque ad prædictum promontorium, ſive locum, vocatum *Watkin's Point*, (ita quod totius terræ tractus per lineam prædictam, inter magnum oceanum & *Watkin's Point* divis' uſque ad promontorium vocatum *Cape Charles*, & ſingula ſua appenditia, nobis, hæredibus & ſucceſſoribus noſtris, integre remaneant excepta, imperpetuum) *Necnon* omnes inſulas, et inſululas, infra limites prædictos. *Concedimus etiam*, & confirmamus, eidem Baroni de *Baltimore*, hæredibus & Aſſignatis ſuis, omnes & ſingulas inſulas, &
34 inſululas, ab orientali prædictæ regionis littore orientem, verſus in mari, natas, vel naſcendas, infra decem leucas marinas, ab eodem littore ſcituatas, cum omnibus & ſingulis portubus, navium ſtationibus, æſtuariis, fluminibus, & fretis, ad regionem, vel inſulas, prædictas, pertinentibus; *omneſque* fundos, terras, campeſtria, ſilvas, montana, paludes, lacus, flumina, æſtuaria, & freta, infra metas, terminos & limites prædictos, ſcituata, ſeu exiſtentia; cum cujuſcunque generis piſcium, tam balænarum, Sturgeonum & alio-
35 rum, regalium quam aliorum, in mari, ſinubus, fretis vel fluminibus infra præmiſſa, piſcationibus, & piſce ibidem capt'; *Omneſque* inſuper auri, argenti, gemmarum, lapidum precioſorum, & aliorum, quaſcunque, ſive lapidum, ſive Metallorum, ſive alterius cujuſcunque rei aut materiæ, venas, mineras, & fodinas, tam apertas quam occultas, infra regionem, inſulas, ſeu limites prædictos, repertos & reperiendos; Et hoc amplius omnium eccleſiarum, quas (creſcente Chriſti cultu & religione) infra dictam regionem, inſulas, & inſululas, & limites prædictos, futuris temporibus ædificari contigerit, patronatus & advocationes; *Una cum* licentia & facultate eccleſias, capellas & oratoria, in locis infra præmiſſa congruis & idoneis, extruendi & fundandi; *eaque* dedicari & ſacrari juxta leges eccleſiaſticas regni noſtri Angliæ faciendi; *cum* omnibus & ſingulis hujuſmodi, ac adeo
36 amplis juribus, juriſdictionibus, privilegiis, prærogativis, regalitatibus, libertatibus, immunitatibus, juribuſque, regalibus & franchefiis, quibuſcunque, temporalibus, tam per mare quam per terram, infra regionem, inſulas, inſululas, & limites prædictos, habend' exercend' utend' & gaudend' prout aliquis Epiſcopus Dunelmenſis, infra Epiſcopatum ſive Comitatum Palatinum Dunelmenſis in regno noſtro Angliæ, unquam antehac habuit, tenuit, uſus vel gaviſus fuit, ſeu de jure habere, teneri, uti vel gaudere debuit aut potuit, *Ipſumque* modo Baronem de *Baltimore*, & hæredes ſuos, regionis prædictæ, cæterorumque omnium præmiſſorum, veros et abſolutos Dominos & Proprietarios (exceptis
37 præexceptis) ſalva ſemper fide, & ligeantia, ac dominio directo, nobis, hæredibus & ſucceſſoribus noſtris, debitis, pro nobis, hæredibus & ſucceſſoribus noſtris, facimus, creamus & conſtituimus per præſentes; *habend'* tenend' poſſidend' & gaudend' prædictam regionem, inſulas, inſululas, & cætera præmiſſa, præfato modo Baroni de *Baltimore*, & hæredibus & aſſignatis ſuis, ad ſolum & proprium opus et uſum ipſius modo Baronis de *Baltimore*, hæredum & aſſignatorum ſuorum, imperpetuum; *tenend'* de nobis, hæredi-
38 bus & ſucceſſoribus noſtris, Regibus Angliæ, ut de Caſtro noſtro de *Windſore* in comitatu noſtro *Berks*, in libero & communi ſocagio, per fidelitatem tantum pro omnibus Servitiis, & non in Capite, nec per Servitium militare. As by the ſaid Original Letters Patent, under the Great Seal of *England*, to which Defendant for his greater certainty craves Leave to refer, relation thereunto being had, may more fully and at large appear.

Defendant cannot but obſerve that, notwithſtanding the Words *Hactenus inculta* are made uſe of *in the Preamble* of the ſaid Charter, the Lands thereby granted being then
39 lookt upon and eſteemed to be incultivated, yet, they are not inſerted by way of reſtriction *in the Body*, or granting part thereof; and, therefore, Defendant is adviſed, and inſiſts, the Lands, thereby deſcribed and granted, are not reſtrained to the ſaid Words *Hactenus inculta*, but did, all, well paſs by the ſaid Letters Patent, notwithſtanding the ſaid Words *Hactenus inculta* ſo recited in the Preamble thereof.

40 Admits that his late Majeſty, King *Charles* the Firſt, by his ſaid Letters Patent to the ſaid *Cecilius*, did grant, unto the ſaid *Cecilius* in Fee, all Iſlands and Iſlets within the Limits deſcribed in the ſaid Grant as aforeſaid, and all and ſingular the Iſlands and Iſlets which were, or ſhould be, in the Ocean, within ten Leagues from the Eaſtern Shore of the ſaid Country towards the Eaſt, as in the Bill is ſet forth, and that his ſaid late Majeſty did thereby erect the ſaid Lands, ſo granted, into a Province, by the Name of *Maryland*, with certain Priviledges and Juriſdictions for the better governing thereof.

41 Doth not know, nor can ſet forth, whether the ſaid Letters Patent or Grant, ſo made to the ſaid *Cecilius* as aforeſaid, was, or was not, ſo deſcribed, or whether the Tracts, which were thereby granted, were, or were not, ſo bounded, by the help of the ſaid pretended Captain *Smith*'s ſaid Book and Hiſtory or Map of *Virginia*, and no other, as by
42 the Bill is alledged; nor whether any ſkilful Perſons own or acknowledge or believe the ſame, for the Reaſons in the Bill mentioned, or for any other Reaſons; but this Defendant, having never compared the ſaid Book or Map with the Names and Deſcriptions of the ſeveral Places mentioned in the ſaid Letters Patent, hath no reaſon to believe the Boundaries or Deſcriptions in the ſaid Letters Patent were taken from ſuch Book or Map.

43 Defendant is adviſed and inſiſts the ſaid pretended Hiſtory of *Smith* cannot, in any reſpect, add to, or diminiſh from, the Grant to the ſaid *Cecilius*, or be of any Authority to explain the ſame, if there was any Doubt or Obſcurity as to the Limits of the Lands that were thereby granted, and which he humbly apprehends there is not.

Saith the ſaid Grant fully and clearly, as he doubts not to make appear, extends to, and includes, all and *every part of the ſaid three Lower Counties* of *Newcaſtle*, *Kent* and *Suſſex*.

44 Doth not know, nor can ſet forth, whether the ſaid Captain *Smith*'s pretended Hiſtory and Map of *Virginia*, had been printed and publiſhed ſome few, or any, or what, number of Years, or how long, before the preſenting ſuch Petition of the ſaid *Cecilius*, then Baron of *Baltimore* in 1632 to his Majeſty King *Charles* the Firſt, and the iſſuing
45 ſuch Letters Patent as aforeſaid, or whether the ſaid Captain *Smith*'s ſaid Hiſtory and Map of *Virginia*, was then printed or publiſhed at all, as pretended by the Bill; though, for ought he knows to the contrary, ſuch Book might be then printed and publiſhed, and which he is inclinable to believe it was, from the Date it bears, and the Year in which it purports, upon the Title-page, to have been printed and publiſhed.

46 Doth not know, nor hath even heard, ſave from the Plaintiffs and their Bill, nor hath he any Reaſon to believe, nor doth he believe, that there was then no other Map or Plan of the ſaid Peninſula or Tract, or the Parts adjacent thereunto done by any *Engliſhman* whatſoever extant, nor any Hiſtory or Deſcription of the ſame Peninſula or Tracts and Parts adjacent, publiſhed, printed, known or uſed, than the ſaid pretended Book or Hiſtory and Map of Captain *Smith*'s, as is alledged in and by the Bill; the ſaid Peninſula,
47 and the ſeveral Parts adjacent thereto, as he hath been informed and believes, having been diſcovered, though not inhabited, or ſettled upon, by *Engliſhmen*, as well as others of Foreign Nations, many Years before the Grant thereof to the ſaid *Cecilius*, the Defendant's Anceſtor, by his ſaid Majeſty King *Charles* the Firſt as aforeſaid, or the time of the pretended printing and publiſhing of the ſaid Captain *Smith*'s ſaid Hiſtory; and the Defendant hath now, in his Cuſtody or Power, a Map thereof, much more ancient, as he believes.

48 Denies that he either knows, or believes, that, according to the expreſs Bounds of the ſaid recited Letters Patent, the Head, or moſt Northern Parts, of the Lands, thereby granted to the ſaid *Cecilius*, was to extend *only* ſo far as until it ſubjoined to ſuch part of the Eſtuary of *Delaware*, as lay under the 40th Degree of the Northern Latitude, as in and by the Bill is ſuggeſted, or that every, or any, part of the Lands which lay under the ſaid 40th Degree, or of ſuch Lands as lay from the 39th Degree compleat to the 40th
49 Degree compleat, were excluded by the ſaid Grant.

On

On the contrary, the Defendant ſaith he is adviſed, and conceives, that, according to the expreſs Bounds of the ſaid recited Letters Patent, the Lands, thereby granted, were to extend, through the 40th Degree compleat, and to *the end thereof*, and that no part of the Lands under the ſaid 40th Degree were excluded out of the ſaid Grant, or meant or intended ſo to be, all the Lands under the ſaid 40th Degree being, manifeſtly, and in Terms, comprehended *within* the ſaid Grant.

50 Inſiſts that no ſuch Conſtruction, or Reſtriction, can, or ought to, be put upon the ſaid Grant, as the Plaintiffs mention and inſiſt upon by their Bill, the ſame, as he is adviſed and conceives, being directly contrary not only to the expreſs Terms, but to the true Intent and Meaning, of the ſaid Letters Patent.

51 Believes that, from the 39th Degree compleat, to the 40th Degree compleat, is 60 Geometrical Miles or Minutes, or 69 *Engliſh* Statute Miles, as the Plaintiffs compute and ſtate the ſame by their Bill, and that there is ſuch Quantity or Space of Land lying under the 40th Degree as the Plaintiffs mention, but inſiſts that the whole thereof, and all Lands lying under the ſaid 40th Degree, of what Space or Quantity ſoever, were granted to the ſaid *Cecilius*, by the ſaid Letters Patent, and not ſuch Lands, or ſo far only, as extended or adjoined *to* the ſaid 40th Degree, as the Plaintiffs unjuſtly pretend by their Bill.

52 Denies that he either knows, or believes, that it appears by the Land Marks, Buttals and other Deſcriptions in the ſaid recited Letters Patent, or by any of them, that no part of the Lands which lay under the 40th Degree was, or was intended to be, granted to the ſaid *Cecilius*; on the contrary, apprehends and is adviſed that it manifeſtly appears,

53 from all and every the Land Marks, Buttals and other Deſcriptions, contained in the ſaid recited Letters Patent, that all the Lands which lay under the ſaid 40th Degree were, and were intended to be, thereby granted to the ſaid *Cecilius*.

Denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs and their Agents, that, at the time of making the before recited Letters Patent to the ſaid *Cecilius*, ſuch part of the ſaid Peninſula as is for that purpoſe mentioned and deſcribed by the Plaintiffs ſaid Bill, or any part thereof, or any part of the Continent at the Head or

54 North part of the ſaid Peninſula, and which is now called the three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, was ſeated and inhabited by the *Swedes* and *Dutch*, or either of them, in manner as in the Plaintiffs Bill is for that purpoſe ſet forth and alledged, or in ſuch a manner as that his Majeſty was not at the time of the ſaid recited Letters

55 Patent to the ſaid *Cecilius* ſeized or poſſeſſed thereof, ſo as to have a good Right and Power to grant the ſame, as by the Plaintiffs ſaid Bill is moſt untruly ſuggeſted.

Defendant is adviſed and humbly inſiſts that his ſaid late Majeſty had good Right and Power to grant the ſame, and, that he did, by his ſaid Letters Patent, grant, and did intend to grant, the ſame, and that the ſaid *Cecilius* did, by his ſaid Petition, and according to the true Scope, Acceptation and Meaning thereof, petition his Majeſty for the ſame.

56 Defendant is adviſed and inſiſts that, from the Words of the ſaid *Cecilius*'s Petition, whereby he prays Leave to tranſport an *Engliſh* Colony into a certain Country therein after deſcribed in the Parts of *America* not then cultivated and planted, though in ſome Parts thereof inhabited by certain barbarous People, having no Knowledge of Almighty God, and from the particular and exact Bounds, and Limits of the Country therein after ſet out and deſcribed in the ſaid *Cecilius*'s Petition, and the ſaid Letters Patent

57 granted thereupon, which evidently and manifeſtly takes in and includes the ſaid three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, it is undoubtedly plain that the ſaid three Lower Counties were not then known, looked upon, or eſteemed, to have been inhabited or planted, or ſettled upon by any Chriſtians whatever, either *Engliſh* or Foreigners, or by any others than the rude and barbarous *Indians*, and that the ſaid *Cecilius*, by his ſaid Petition prayed for a Grant of the ſaid three Lower Counties, and that his Majeſty certainly intended to grant the ſame.

58 Defendant is adviſed and conceives that his Majeſty *had full Power ſo to do*, and was well ſeized and poſſeſſed of the ſaid three Lower Counties, ſo as to grant the ſame, and that, if there was any itinerant *Dutch* or *Swediſh* Traders upon any part of the ſaid three Lower Counties, at the time of his Majeſty's ſo granting the ſame to the ſaid *Cecilius*, yet, that their being there, could in no manner deprive or take from his Majeſty the Power of granting the ſame, or leſſen or diminiſh the ſaid Grant, and that a few of

59 ſuch Foreigners being there, in Caſe there were any ſuch, would in no Caſe make the ſame be conſidered as inhabited and cultivated, in ſuch a manner as to impeach or invalidate the ſaid Grant; for, that his Majeſty could not be ſuppoſed to have any View to ſecure Poſſeſſions to Foreigners, appears from the expreſs Words of the ſaid Grant, it be-

60 ing mentioned and recited to be made for the Enlargement of the *Engliſh* Empire and Dominion; and, as the Limits deſcribed in the ſaid Grant clearly take in the ſaid three Lower Counties, the Defendant is adviſed there can be no pretence of any Deceit on the Crown in obtaining the ſaid Letters Patent, though there ſhould happen to be ſome few *Swediſh* and *Dutch* ſettled upon ſome ſmall inconſiderable Parts of the ſaid Counties.

Hath heard, and believes it to be true, that, after the ſaid Letters Patent and Grant were made to the ſaid *Cecilius* as aforeſaid, he the ſaid *Cecilius*, or ſome of his Dependants,

61 entered upon and took poſſeſſion of the ſame Premiſſes ſo granted, and have ever ſince continued poſſeſſed thereof, ſave as hereafter is mentioned as to ſuch Parts thereof as the Plaintiffs and their Anceſtors have unjuſtly uſurped the Poſſeſſion of, and to which they now pretend a Right, but, as Defendant is adviſed and inſiſts, without the leaſt Manner of Right or Title thereto.

62 Denies that he either *knows* or *believes*, or hath *ever heard*, ſave from the Plaintiffs or their Dependants, that the ſaid *Swedes* and *Dutch* ſucceſſively poſſeſſed and enjoyed *for many Years* after the Date of the ſaid Letters Patent to the ſaid *Cecilius* their ancient Settlement on *Delaware*, as deſcribed and mentioned in the Plaintiffs ſaid Bill of Complaint, the ſaid *Dutch* and *Swedes* having no ſuch Settlement there (as this Defendant ever heard of, or believes) as is pretended and ſuggeſted in and by the Bill, there being but a few of

63 them there (if any) and thoſe but itinerant Traders, who had nothing that could deſerve the Name of, or be conſidered as, a Settlement thereon; or, if they were ſettled there, had no Right to the ſame, or at leaſt to ſuch Parts only as they were actually ſettled upon, and as were inhabited by them as aforeſaid, which were very ſmall and inconſiderable.

Hath heard, and believes it to be true, that the ſaid *Cecilius* and his Heirs or Deſcendants, the Defendant's Anceſtors, did ſet down, and take poſſeſſion of, Lands, on the Weſtern

64 Side of the ſaid Peninſula *above*, and more Northwards than, the 39th Degree of Northern Latitude compleat, and even almoſt to the 40th Degree compleat, of the ſaid Northern Latitude, but is adviſed and apprehends the ſame was not ſo done by them in Deceit and Diſinheriſon of his Majeſty, but all ſuch Lands as they ſo ſat down upon, or took poſſeſſion

65 of, were expreſly contained within the Limits and Bounds of the ſaid recited Letters Patent, and for which Seating-down and Poſſeſſion Defendant is adviſed and inſiſts that the ſaid *Cecilius*, or his Heirs or Deſcendants, had a clear and indiſputable Right and Title under the ſaid Letters Patent and Charter of *Maryland* as before is mentioned

Denies that he either knows, or ever heard or believes, that the Plaintiffs, or either of them, or any under whom they claim, ever could, or did, make or transfer any le-

66 gal Title or Right of the ſaid three Lower Counties, or either of them, or of any Part thereof, to any Deſcendant of the ſaid *Cecilius*, as is untruly alledged in and by the Bill, or that any Deſcendant of the ſaid *Cecilius* ever did or could derive or have any Right or Title thereto from the Plaintiffs, or thoſe under whom they derive, the Plaintiffs or either of them, or thoſe under whom they derive, never having had any Manner of Right or Title to the ſaid three Lower Counties, or either of them, or any Part thereof, to the Knowledge or Belief of this Defendant.

67 Doth not *know*, nor *ever heard*, ſave from the Bill, *nor doth he believe*, that the *Dutch* ever held the ſaid Lands called the three Lower Counties (which this Defendant hath heard and believes lie on the Weſtern Side of the River of *Delaware*) as *appertaining and belonging to a larger or greater Settlement*, upon a large Tract of Land Part of what is generally

68 called *New England*, and particularly on thoſe Parts now called *Weſt New Jerſey* and *Eaſt New Jerſey* and *New York* on the Eaſtern Side of *Delaware*; or, that the ſaid three Counties always went along with the ſaid *larger* Tract or Settlement, as by the Bill is ſuggeſted, or *any ways* belonged or appertained thereto; but a very inconſiderable Part of the ſaid three Counties (if any) being inhabited or ſettled upon, at the time the *Dutch* were in poſſeſſion of the ſaid *Jerſeys* and *New York*, and *the ſaid three Counties were not, then,*

69 *looked upon or eſteemed, in any manner, to appertain or belong to the ſaid* Jerſeys *or* New York.

Neither doth Defendant know, or believe, that it was, or is, *abſolutely* neceſſary for thoſe who enjoyed the ſaid *greater* Settlement to have, likewiſe, the Lands now called the three Lower Counties, for the Reaſons in the Bill mentioned, or any other Reaſons; nor do the Inhabitants of the ſaid *Jerſeys* or *New York* make the leaſt Pretence or Claim to

70 the ſaid three Counties, or any Part thereof, to the Knowledge or Belief of this Defendant; tho' this Defendant believes it might be advantageous, for thoſe who enjoyed the ſaid greater Settlements, to have, likewiſe, the ſaid three Lower Counties, if they had any Right to the ſame.

Hath heard, and believes it to be true, that, in or about the Year 1664, his late Majeſty King *Charles* the Second took from the ſaid *Dutch* the ſaid *great* Settlement and Poſſeſ-

71 ſion of the ſaid *Dutch* at *New York* and *New Jerſeys*, on the Eaſtern Side of the ſaid River of *Delaware*, and all Lands appertaining to the ſaid *great* Settlement.

But denies that he either *knows*, or *believes*, or *ever heard*, that the ſaid three Lower Counties were then looked upon, or eſteemed, to be *Part of*, or appertaining to, the ſaid Provinces of *New York* and *New Jerſeys*, or to be then the Right of, or *in the Poſſeſſion* of the *Dutch*, or that his ſaid late Majeſty King *Charles* the Second, by virtue of ſuch his

72 Conqueſt from the *Dutch* became, for the firſt time, ſeized and poſſeſſed, in Right of his Crown, of the ſaid three Lower Counties; on the contrary, the ſaid three Lower Counties were, as Defendant moſt aſſuredly believes, long before that time, the Right of, and belonged to, the Crown of *England*; the ſame having been, before that time, granted by his ſaid then Majeſty's Royal Father King *Charles* the Firſt to the ſaid *Cecilius* Defendant's Great Grandfather, by the ſaid Letters Patent, as aforeſaid.

73 Hath heard, and believes it to be true, that his ſaid late Majeſty King *Charles* the Second did, by his Letters Patent under the Great Seal of *England*, bearing Date at *Weſtminſter* on or about the 12th Day of *March*, in the 16th Year of his Reign, and in the Year of our Lord 1664, give and grant unto his Brother *James* then Duke of *York*, his Heirs and

74 Aſſigns, very conſiderable Tracts of Land in *New England*, with divers Powers of Government over the ſaid *County* thereby granted, as in the Bill is mentioned; but Defendant, as to the ſeveral Tracts of Land and Premiſſes thereby granted to the ſaid *James*, then Duke of *York*, craves leave to refer to the ſaid Letters Patent under the Great Seal of *England* when produced, or the Exemplification or Enrollment thereof, alledged by the Bill to remain of Record in this Honourable Court.

75 But denies, that he either knows, or believes, that the ſaid Duke of *York*, by virtue of or under the ſaid laſt recited Grant and Letters Patent, by his Governors, Deputy-Governors, and other Officers, or otherwiſe, became and was *actually* and *really*, or lawfully aud rightfully, ſeized and poſſeſſed of or intitled to *the ſaid three Lower Counties of* New-caſtle, Kent, *and* Suſſex, as belonging or appertaining to the ſaid Provinces of the *Jerſeys* and *New York*, or either of them, or as Part of, or appertaining to, any of the Premiſſes

76 ſo granted to him by any of the ſaid Letters Patent of the 12th of *March* 1664, as is ſet out and pretended in and by the Bill.

On the contrary, the Defendant hath heard, and believes, that the ſaid *Cecilius* Lord *Baltimore*, and others, the Defendant's Anceſtors, both before and after the ſaid Year 1664,

77 and from time to time, from the Grant of the ſaid Charter in 1632, until as herein after is mentioned, did and exerciſed all Acts of Ownerſhip, Proprietorſhip, and Government, *within the ſaid three Lower Counties*, as abſolute Lords and Proprietors thereof, and that they had a good Right and Title ſo to do.

Doth not know, or believe, or ever heard, ſave from the Plaintiffs and their Agents, that the ſaid three Lower Counties were *ever* in the Poſſeſſion of the *Dutch*, or were Depen-

78 dents upon, or belonging, or appertaining to, the ſaid Great Settlement of the two *Jerſeys* and *New York*, as by the Bill is ſuggeſted.

On the contrary apprehends and believes, the ſame were *always dependent upon*, and belonging to the Province of *Maryland*, and fully comprehended and included within the Limits and Bounds deſcribed in the ſaid Charter of *Maryland* to the ſaid *Cecilius* the Defendant's Great Grandfather as aforeſaid.

And the Defendant inſiſts, that the ſaid Duke of *York* had no Right to grant the ſame away to any other Perſon, as is alledged and pretended by the Bill.

79 Hath heard, and believes it to be true, that, after his ſaid late Majeſty King *Charles* the Second had made ſuch Grant in 1664, as aforeſaid, to the ſaid *James* Duke of *York*, a certain Treaty was concluded at *Breda*, between his ſaid late Majeſty King *Charles* the Second and the States-General, about the time in the Bill for that purpoſe ſet forth and

80 mentioned; and that the States-General, by ſuch Treaty, ceded and yielded, to his ſaid late Majeſty, all Places whereof his ſaid late Majeſty had been in Poſſeſſion on the 10th of *May* 1667, as in the ſaid Bill is alledged: To which Treaty the Defendant, for his greater Certainty, craves leave to refer.

Hath alſo heard, and believes, that War was, afterwards, declared between *England* and *Holland*, in or about the Year 1672, as in the Bill is ſet forth.

81 And that afterwards, and for ought the Defendant knows to the contrary, in or about the Month of *July* 1673, the *Dutch* entered into and upon their former ſaid *great* Settlement, upon the Lands now called Weſt and Eaſt *New Jerſey*, and *New York*; but denies, that he either *knows*, or *believes*, or *ever heard*, ſave from the Plaintiffs and their Agents,

82 that the *Dutch* likewiſe, upon or after ſuch Declaration of War in 1673, entered into and upon the Lands now called the *three Lower Counties* of *Newcaſtle*, *Kent*, and *Suſſex*, as by the Bill is alledged.

Hath heard, and believes that, to the contrary, in or about the Month of *February* 1673, as by the Bill is alledged, a Treaty of Peace was concluded, between *England* and *Holland*, and that, by ſuch Treaty, all Countries which had been taken by each from the other, ſince the ſaid laſt-mentioned War broke out in 1672, were agreed to be reſtored,

83 by each of the contracting Parties, to the other, from whom the ſame had been taken: To which Treaty, for greater Certainty, the Defendant craves leave to refer.

Heard and believes, that, in a very ſhort time after the concluding the ſaid laſt-mentioned Treaty of *February* 1673, his ſaid late Majeſty King *Charles* the Second, and the ſaid

84 *James* Duke of *York*, ſent over Colonel *Edmund Andros*, afterwards Sir *Edmund Andros* Knight, or ſome other Perſon or Perſons, with Authority to receive from the *Dutch* the ſaid Settlements of the two *Jerſeys* and *New York*, and the Government thereof, to continue in the Command thereof *under the ſaid* James *Duke of* York.

But denies, that he either knows, or believes, or ever heard, ſave from the Bill, that the ſaid Colonel *Andros* was ſent over to receive, or did receive, from the *Dutch*, Poſſeſſion

85 of the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or any Part thereof, at the time he ſo received from them their ſaid Settlement of the *Jerſeys* and *New York*, as by the Bill is ſuggeſted; the ſame not having, to the Knowledge or Belief of the Defendant, been in the Poſſeſſion of the *Dutch* during the War, or delivered by the *Dutch* to the

86 ſaid Colonel *Andros*, or been under his Command or Government under his ſaid late Majeſty King *Charles* the Second and the ſaid *James* Duke of *York*, or either of them, by virtue of any Commiſſion or Commiſſions from them, or either of them, or otherwiſe howſoever.

Hath heard and believes that, immediately, or ſoon, after the giving ſuch Commiſſions and Authority to the ſaid Colonel *Andros*, the Colonel went over to the *New Eaſt* and *Weſt Jerſeys* and *New York*, and took Poſſeſſion *thereof*, for, and in behalf of the ſaid *James* Duke of *York*, and continued in Poſſeſſion thereof, and under the Authority and in

87 the Behalf of the ſaid *James* Duke of *York* did, for many Years together, exerciſe all Sorts of Acts of Propriety and Government whatſoever *throughout the ſaid Provinces of New* Eaſt *and* Weſt Jerſeys *and* New York.

But denies, that he either *knows*, *believes*, or *ever heard*, ſave from the Bill and from the Plaintiffs and their Agents, that the ſaid Colonel *Andros*, under the Authority and

88 in the Behalf of the ſaid *James* Duke of *York*, or of his ſaid late Majeſty King *Charles* the Second, by virtue of ſuch his Commiſſions, or otherwiſe, exerciſed *all, or any, kinds of Acts of Ownerſhip or Government, within the ſaid three Lower Counties* of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, *or any Part thereof*, or that he was any wiſe in the

Poſſeſſion

Poſſeſſion of the ſame, or had any Right thereto by virtue of his ſaid Commiſſion under the Crown, or the Duke of *York*, or otherwiſe, however, the Right thereto, as the Defendant is adviſed and inſiſts, being in the Defendant's ſaid Anceſtors, under the ſaid Letters Patent, as aforeſaid.

89 Hath heard, and believes it may be true, that his ſaid late Majeſty King *Charles* the Second, in order to make unto the ſaid Duke of *York* a clear Title to the ſaid Countries which had been before granted to him in 1664, as aforeſaid, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter* on or about the 29th Day of
90 *June*, which was in the Year of our Lord 1674, did give and grant, unto the ſaid *James* Duke of *York*, his Heirs and Aſſigns the ſame Territories which were granted by the ſaid former Letters Patent; and did thereby give and grant unto the ſaid *James* Duke of *York*, in Fee, divers Powers of Government over the ſaid Country and Territory thereby granted,
91 as in the Bill is for that purpoſe ſet forth; but for his greater Certainty therein craves leave to refer to the ſaid Letters Patent, when produced by the Plaintiffs under the Great Seal of *England*, or to the Exemplification, or Enrollment thereof, alledged by the Plaintiffs to remain as of Record in this Court.

92 Denies that he either knows, or believes, that the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or any part thereof, were included in the ſaid laſt mentioned Letters Patent to the Duke of *York* of 1674, or that any Intereſt therein, or Right thereto, paſſed to the ſaid Duke of *York*, by virtue of the ſaid recited Letters Patent, the ſame being, as the Defendant apprehends, and believes, no new Grant of any other Lands than what were before included in the ſaid former Letters Patent to the Duke of *York* of 1664, but only a Confirmation of the very ſame Lands included in the ſaid former Grant; which ſaid former Grant or Letters Patent to the Duke of *York* no ways extended, as the Defen-
93 dant is adviſed, and inſiſts, to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, or any Part thereof.

Hath heard and believes, that the Plaintiffs late Father, about the time in the Bill for that purpoſe mentioned, petitioned his late Majeſty King *Charles* the Second to grant him Letters Patent for a Tract of Land in *America*, as in the Plaintiffs Bill is for that purpoſe ſet forth; but having never ſeen the ſaid original Petition, and knowing nothing thereof
94 of his own Knowledge, muſt therefore crave Leave for his greater Certainty, as to the Contents of the Plaintiffs Father's ſaid Petition, to refer to the ſaid Petition itſelf, when produced.

Doth not know, nor ever heard, ſave from the Plaintiffs Bill and from them and their Agents, and therefore cannot ſet forth, either as to his Knowledge or Belief, whether the
95 Plaintiffs late Father was, or was not, about the time in the Bill for that purpoſe mentioned, or at any other time, called in by the Lords of the Committee of his ſaid late Majeſty's moſt Honourable Privy Council for the Affairs of Trade and Plantations, to whoſe Conſideration the ſaid Petition (as the Plaintiffs alledge by their ſaid Bill) had been referred, as in the Plaintiffs Bill is ſet forth; nor whether the Plaintiffs ſaid late Father was, or was not, then aſked ſuch Queſtions, or whether he did, or did not, make ſuch Anſwer thereto,
96 as in the Plaintiffs Bill is for that purpoſe particularly ſet forth and alledged; nor what was done or tranſacted thereon, nor what Proceedings were had relating thereto, the Defendant knowing thereof himſelf, but muſt refer the Plaintiffs to the Minutes and Orders of the ſaid Privy Council, and Lords of Trade, for the ſame, the Defendant being an entire Stranger thereto, otherwiſe than may appear by ſuch Orders and Minutes.

97 Hath heard and believes, that, purſuant to the Advice and Reports of the Lords of his ſaid late Majeſty's moſt Honourable Privy Council, and by Letters Patent under the Great Seal of *England*, of ſuch Date as in the Bill is for that purpoſe mentioned, his ſaid late Majeſty did give and grant, unto *William Penn* Eſq; the Plaintiffs ſaid late Father, his Heirs and Aſſigns, a Tract of Land in *America*, with divers Powers of Government; and that, by the ſame Letters Patent, the ſaid Country was erected into a Pro-
98 vince, and called *Penſilvania*; but the Defendant, for his greater Certainty, as to the proper Bounds, and Limits, and Dimenſions of the ſaid Tract of Land, ſo granted by the ſaid Letters Patent to the Plaintiffs ſaid Father, and called *Penſilvania*, begs leave to refer to the ſaid laſt-mentioned Letters Patent under the Great Seal of *England*, when produced by the Plaintiffs.

But is adviſed and inſiſts that the ſaid laſt-mentioned Letters Patent no ways granted, or gave, to the Plaintiff's late Father the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and
Here he ſwears the Lower Counties to be on the other ſide of Delaware ! 99 *Suſſex*, or either of them, or any Part of them; *the ſaid Province of* Penſilvania, *being entirely in the Weſt Side of* Delaware *River, and the ſaid three Counties being on the Eaſt Side of the ſaid River, and no ways included in the ſaid laſt mentioned Letters Patent.*

Denies that he either knows, or believes, or ever heard, that the Lords of his ſaid late Majeſty's Privy Council thought the Conſent of the ſaid Duke of *York* neceſſary before
100 the ſaid Grant of *Penſilvania* paſſed the Great Seal, for the Reaſons in the Bill for that purpoſe mentioned; or particularly in reſpect of the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or that the ſaid Duke of *York*'s Aſſent to the ſaid Grant was, accordingly, for that reaſon, had and given to the Right Honourable the Lords of the Committee of Plantations, or before a Committee of the Privy Council of his ſaid late Majeſty King *Charles* the Second, as by the ſaid Bill is ſuggeſted.

101 But hath heard, and *believes* it to be true, that the ſaid Duke of *York*'s Aſſent was had to the ſaid Grant, and that the ſaid Lords of the Council *thought ſuch Aſſent neceſſary* to the ſaid Grant of *Penſilvania*, before they paſſed the ſame, *in regard* that, as this Defendant believes, their Lordſhips might be apprized that the Provinces of *New Eaſt* and
Here he ſwears Penſilvania *contiguous to* New Jerſey *and* New York, *tho' in fact the River* Delaware *is between them !* 102 *Weſt Jerſey* and *New York*, which were then in the Poſſeſſion of the ſaid Duke of *York*, were *contiguous* to the ſaid Tract of Land ſo paſſed by the ſaid Grant, and intended to be erected into the ſaid Province of *Penſilvania*, and *therefore*, their Lordſhips were in ſome doubt whether it might not infringe upon the ſaid other Grant of the other Pro-
103 vinces of the Duke of *York*, called *New Eaſt* and *Weſt Jerſey* and *New York*, and *for that reaſon*, and *that reaſon only*, as the Defendant hath heard and believes, and not particularly, or at all, with reſpect to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, their Lordſhips thought it neceſſary to have the ſaid Duke of *York*'s Aſſent to the ſaid Grant, before it paſſed the Great Seal.

Hath heard, and believes it may be true, that the ſaid *William Penn* the Plaintiffs late Father, after obtaining the ſaid Grant of *Penſilvania*, and to take away all manner of Objections thereto from the ſaid Duke of *York*, or any Claiming under the Duke, did make Intereſt and prevail upon the ſaid Duke of *York* to confirm the ſame; and that the ſaid
104 Duke of *York*, afterwards, by Indenture dated on or about the 21ſt of *Auguſt* 1682, and made between ſuch Parties as in the Bill are for that purpoſe mentioned, did remiſe, releaſe and for ever quit claim, unto the ſaid *William Penn*, his Heirs and Aſſigns, all his the ſaid Duke of *York*'s Right, Title and Intereſt, whatſoever, to the ſaid Tract of Land and Pre-
105 miſſes before granted by the ſaid Letters Patent of the 4th of *March* 1080, To hold to the ſaid *William Penn*, his Heirs and Aſſigns, for ever; but the Defendant craves leave, for his greater Certainty, to refer to ſuch Indenture when produced.

Doth not know, but hath heard, that, ſoon after the Grant was made by the ſaid King *Charles* the Second of the ſaid Province of *Penſilvania*, and confirmed by the ſaid Duke
106 of *York* unto the Plaintiffs late Father as aforeſaid, the ſaid *James* Duke of *York* did make and execute two ſeveral Indentures of Feoffment, of the 24th of *Auguſt* 1682, to the Plaintiffs Father *William Penn*, as in the Bill is for that purpoſe particularly ſet forth and mentioned; and that there might be ſuch Covenant therein, on behalf of the ſaid Duke of *York*, and ſuch Power for Livery and Seiſin, as in the Bill are mentioned; but the Defendant, knowing nothing thereof of his own Knowledge, or otherwiſe than by
107 Information, for his greater Certainty as to the Contents of the two laſt mentioned Indentures of Feoffment, and the Premiſſes thereby intended to be enfeoffed to the ſaid *William Penn*, begs leave to refer to the ſaid Indentures of Feoffment when produced.

But denies that he either knows, or believes, that any Right to, or Intereſt in, the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, or any Part of
108 them, paſſed, or could paſs, to the ſaid *William Penn* the Plaintiffs late Father, by virtue of, or under, the ſaid pretended Indentures of Feoffment, or either of them from the ſaid Duke of *York*; the ſaid Duke of *York* having no manner of Right or Title thereto himſelf, under either of his Grants from the Crown before-mentioned.

Hath heard, and believes it to be true, that the ſaid Duke of *York* was ſo ſenſible he had no manner of Right or Title to the ſaid three Lower Counties, or either of them;
109 and that his ſaid Grants and pretended Feoffments to the Plaintiff's late Father in 1682 (if any ſuch Feoffments there really and in fact were) were of no Validity or Force, with reſpect to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, that the ſaid Duke of *York*, ſoon afterwards, in the Year 1683, obtained *a Warrant* from his late Majeſty King *Charles* the Second for paſſing a Patent, whereby the ſaid three Lower Counties were intended to have been granted to the ſaid Duke of *York*; and that a *Copy of* a Bill was
110 afterwards prepared by his Majeſty's then Attorney-General for that purpoſe; but the ſame, as the Defendant hath heard and believes, was *never paſſed into a Grant*; for that the then Lord *Baltimore*, having notice thereof, preſented a Petition to his Majeſty, in oppoſition to the paſſing the ſaid Bill under the Great Seal, and praying the ſame might not paſs
111 till his Majeſty ſhould be ſatisfied of the ſaid Letters Patent formerly granted to *Cecilius* Lord *Baltimore*, as aforeſaid, and wherein the ſaid three Counties of *Newcaſtle*, *Kent*, and *Suſſex*, were comprized; which as this Defendant hath heard and believes *prevented the paſſing the ſaid* Bill into a Grant of the ſaid three Lower Counties to the ſaid Duke of *York*.

And this Application of the ſaid Duke to the Crown for a Grant of the ſaid three Counties in 1683, is the ſtrongeſt Evidence, as the Defendant is adviſed, and inſiſts, that it was
112 then apprehended the Duke had no manner of Right or Title thereto, and the not paſſing the ſaid Bill into a Grant, upon the Lord *Baltimore*'s Petition againſt the ſame, ſhews the Senſe of the Crown to be ſo at that time.

Knows nothing of the Plaintiffs late Father *William Penn* having taken Poſſeſſion in Form, of the Premiſſes contained in the ſaid reſpective pretended Indentures of Feoffment,
113 or of any Tenants of the ſaid Premiſſes, attorning to him, at the time, or in the manner, as by the Bill is ſuggeſted, or at any other time, or in any other manner, whatſoever; but, if the Fact really was ſo, and that the Plaintiffs late Father did really take Poſſeſſion of the ſaid Premiſſes in the manner as by the Bill is pretended, which the Defendant neither *knows* or *believes*, yet, the Defendant is adviſed and inſiſts his ſo doing was a Wrong and Injury done to the Defendant's ſaid late Anceſtor, the then Lord *Baltimore*,
114 and an Infringement upon his Right and the Lands granted to him by the ſaid Charter of *Maryland*, and that the Plaintiffs late Father had no manner of Right ſo to do; and that the Plaintiffs ought not, now, to be permitted in a Court of Equity, to make uſe of the Injuſtice and Injury their late Father committed againſt the Defendant's ſaid Anceſtor, to ſupport their Pretenſions to what they have no manner of Right to.

115 Knows nothing of the pretended Proclamation by the Plaintiffs Bill, ſet forth to have been made by the Governor and Council of *New York*, in favour of the Plaintiffs late Father, and in ſupport of the ſaid two Indentures of Feoffment from the Duke of *York* in 1682, and muſt, therefore, leave the Plaintiffs to make ſuch proof thereof as they ſhall be able, or adviſed.

But is adviſed, and inſiſts, that ſuch Proclamation (if any ſuch really was made) could no ways impeach the ſaid Charter of *Maryland*, or the ſaid Letters Patent to the ſaid
116 *Cecilius* in 1632, or take away any Right the Defendant or his ſaid Anceſtors had to any Lands under the ſame.

Believes the ſaid three Counties of *Newcaſtle*, *Kent*, and *Suſſex*, may be comprized and included within the Bounds and Deſcriptions of the ſaid Indentures of Feoffment of 1682,
117 but the Defendant is adviſed, and humbly inſiſts, the Plaintiffs can have no right to the ſaid three Counties, or any Part of them, under the ſaid Indentures of Feoffment, or otherwiſe, for the Reaſons herein before particularly mentioned; and particularly for that the ſaid Duke of *York*, at the time of his making the ſaid Feoffment, if any ſuch Feoffments were made, had no manner of Right to the ſaid Counties, or either of them, or any Part thereof.

Hath heard, and believes it may be true, that the Plaintiffs late Father might enter into the *peaceable Poſſeſſion* of the ſaid Province of *Penſilvania* about the time in the Bill
118 for that purpoſe mentioned; but denies that he either *knows*, or *believes*, or *ever heard* that the ſaid *William Penn*, at or about the time in the Bill for that purpoſe mentioned, or at any other time, whatſoever, *entered into the peaceable Poſſeſſion of the ſaid three lower Counties*, as Proprietor thereof, as in the Bill is untruely ſuggeſted, or that he had any
119 right ſo to do, or that the ſaid *William Penn*, or thoſe claiming under him, now are, or ever were Proprietors thereof, *or ever in the Poſſeſſion thereof as ſuch*, or had any Right or Title thereto, whatſoever.

But hath heard and believes that, there being a Diſpute, between the Crown and the Defendant's Anceſtor, touching the Right to the ſaid three Lower Counties, and the Defendant's Anceſtors having been under ſome ſuppoſed legal Diſabilities, whereby they were reſtrained from exerciſing any Acts of Government, and theſe three Counties not being
120 of Extent and Riches enough to maintain a Governor of themſelves, ſeparately and independent of any other Province, the Governors of *Penſilvania*, for the time being, for many Years paſt, have been permitted to have the Government, and to exerciſe a Juriſdiction, over the ſaid three Counties; but notwithſtanding ſuch Permiſſion the ſaid Counties were never, to the Knowledge or Belief of the Defendant, look'd upon as Part of *Penſilvania*, or that the Plaintiffs, or any of their Anceſtors, had any Right or Title thereto;
121 and, as an Evidence of this, the Defendant hath been informed and believes, and doubts not but it will appear, that the Plaintiffs and their Anceſtors have, always, from time to time, upon his Majeſty's approving of a Governor for their ſaid Province of *Penſilvania* and the ſaid three Lower Counties, ſigned a Declaration in Writing, declaring that his Majeſty's Royal Approbation and Allowance of ſuch Governor of *Penſilvania*, to be at the ſame time Governor of the ſaid three Lower Counties upon *Delaware* River,
122 ſhould not, in any manner, be conſtrued to eſtabliſh any Right in them to the ſaid three Lower Counties, or to diminiſh or ſet aſide the Right claimed by the Crown thereto.

So that the Defendant apprehends, and is adviſed, that it appears from this Declaration of their late Father, and themſelves, from time to time, that he and they was and were ſenſible, he and they had no Right to the ſaid three Lower Counties, but that he and they, and the Deputy-Governor of the ſaid Province of *Penſilvania* under him and
123 them, held the Government of the ſaid three Lower Counties in Truſt only for the Crown, or ſuch other as ſhould make out a Title to the ſame under the Crown.

Defendant doth not know, or believe, or ever heard, that the Plaintiffs, or their Father, ever received Quit-Rents from the Inhabitants of the ſaid three Counties as Proprietors thereof, but, however that might be, the Defendant is adviſed and inſiſts that any illegal, or uſurped, Poſſeſſion of their's of the ſaid three Lower Counties, or any
124 Part of them, can in no wiſe ſupport their pretended Right or Title thereto, as the ſame are clearly comprized within the Limits and Bounds deſcribed in the ſaid Charter of *Maryland* granted to the Defendants ſaid Anceſtor *Cecilius*, as aforeſaid.

But the Defendant apprehends the *original Right*, to the ſaid three Counties, *cannot be drawn into Queſtion* in this Suit, and therefore the Defendant apprehends and is adviſed all theſe Parts of the Bill, relating to the Grants from the Crown and the Duke of *York*, might have been very well *omitted* out of the Plaintiffs Bill.

125 Denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs Bill, that the Plaintiffs late Father *William Penn*, at his own Charge, peopled and ſettled the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or that the Plaintiffs, or their ſaid late Father, have been at the Expence of 60,000 *l.* Sterling in peopling, ſettling and
126 improving the ſame, as is pretended by the Bill, or that they have been at *any* Expence *at all* on that Account, to the Knowledge or Belief of the Defendant; for, on the contrary, the Defendant hath heard, and believes it to be true, that the Plaintiffs late Father was not at the Charge or Expence of peopling or ſettling the Province of *Penſilvania*, but that the ſettling and improving, even of that Province, was begun and carried on at the Expence, Hazard and Induſtry of divers People who purchaſed, at firſt, a very conſider-
127 able Tract of Land from the Plaintiffs late Father, to the amount of 600,000 Acres, and were at the Trouble, Hazard and Expence of ſettling, peopling and cultivating the ſame, and paid the ſaid *William Penn* a conſiderable Conſideration for ſuch Purchaſe; by which the Plaintiffs ſaid Father was an immediate Gainer by the firſt ſettling and peopling the ſaid Province of *Penſilvania*, and was not at the Hazard or Expence thereof himſelf: And, as this was the Method the Plaintiffs late Father took, in ſettling and peopling the *ſaid*

Province

128 *Province* of *Penſilvania, to which he had, as the Defendant believes, a Right*, is very improbable to imagine he ſhould be at any Expence in ſettling, peopling, or improving the ſaid Lower Counties of *Newcaſtle, Kent* and *Suſſex*, or either of them, or any part of them, to which he muſt, as the Defendant apprehends, know he had no manner of Right or Title.

Saith that if the ſaid three lower Counties of *Newcaſtle, Kent* and *Suſſex* were part of, or appertaining to, the ſaid Province of *Penſilvania*, which however he inſiſts they are
129 not, he believes they, together, would not make one of the moſt conſiderable and populous Provinces or Colonies for the Age thereof in *America*.

And, for ought the Defendant knows to the contrary, the Number of Souls, in the ſaid three Lower Counties only, excluſive of *Penſilvania*, may be eſteemed to be 40,000, or near that Number. But denies that when he lately came out of the ſaid Province of *Maryland* into the ſaid three Lower Counties, he was at all ſurprized, as is ſuggeſted by the
130 Bill, to ſee how much thicker of Inhabitants, or of beautiful Plantations, the ſaid three lower Counties were, than the ſaid Province of *Maryland* was; neither, in Fact, are there, to the beſt of the Defendant's Judgment and Belief, more beautiful Plantations in the ſaid three Lower Counties than in the other Parts of the Defendant's ſaid Province of *Maryland*; nor are the ſame thicker of Inhabitants, as the Plaintiffs ſuggeſt.

131 Knows nothing of the ſubſequent Letters Patent, in the ſaid Bill alledged to have been obtained by the ſaid Duke of *York* from his ſaid late Majeſty King *Charles* the Second, dated the 22d of *March* 1682, nor ever heard of the ſame, or of ſuch Letters Patent having been obtained or granted, ſave from the Plaintiffs, and *doth not believe there are any ſuch*, and muſt, therefore, refer to the ſame, if any ſuch were granted, under the Great Seal of *England*, when produced by the Plaintiffs; but, if ſuch Letters Patent, as are laſt
132 mentioned, were obtained by the ſaid Duke of *York*, and granted by his ſaid late Majeſty, as the Plaintiffs ſuggeſt, yet, the Defendant denies that he either knows, or believes, that the ſame were ſo obtained or granted in Truſt for the Plaintiffs late Father, or in Purſuance or Performance of any the Covenants in the ſaid pretended Indentures of Feoffment from the ſaid Duke of *York* to the Plaintiffs ſaid Father, or that the ſaid Duke of *York* delivered the ſaid Original Letters Patent under the Great Seal to the Plaintiffs Father
133 immmediately, *or at any time* to the Plaintiffs Father, as is pretended by the Bill; but the Defendant is adviſed and inſiſts that the ſaid laſt mentioned Letters Patent, if obtained by the ſaid Duke of *York*, as by the Bill is ſuggeſted (but which this Defendant *doth not believe*) could not any way diveſt the Defendant, or any of his Anceſtors, of the Right
134 they had to the ſaid three Lower Counties, or either of them, under their Original Charter of *Maryland*, from the Crown in 1632, ſuch Letters Patent being long Subſequent in time to the ſaid Charter.

Hath heard, and believes it to be true, that the ſaid Duke of *York*, about the time in the Bill mentioned, was ſolliciting and endeavouring to procure from the Crown a further Grant of the three Lower Counties of *Newcaſtle, Kent* and *Suſſex*, and that, before ſuch Grant paſſed the Great Seal, it was ſtopt, upon a Petition preſented to his late Majeſty
135 King *Charles* the Second, on behalf of the ſaid Lord *Baltimore*, the Defendant's Anceſtor, and in ſupport of his Right and Claim to the ſaid three Lower Counties, as in the Bill is alſo for that purpoſe mentioned, and as herein before is mentioned and ſet forth.

But denies that he either knows, or believes, that the ſaid Duke of *York* ſo ſollicited ſuch further Grant of the ſaid three Counties in purſuance of any Covenants with the Plain-
136 tiffs ſaid late Father, as is pretended by the Bill, or that the Duke of *York*, in caſe he had procured ſuch further Grant, intended it for the Benefit of the Plaintiffs late Father, but for his own Uſe and Benefit.

Hath heard, and believes it to be true, that ſuch laſt mentioned Petition, on behalf of the ſaid then Lord *Baltimore*, having been preſented to his Majeſty, was, by his Majeſty's Order in Council of ſuch Date as in the Bill is ſet forth, referred to the Conſideration of the then Committee of Trade and Plantations, (and which Committee the Defendant believes
137 did then conſiſt of ſuch of the Lords of his ſaid Majeſty's Moſt Honourable Privy Council as charged by the Bill.)

Hath likewiſe heard, and believes it to be true, that the ſaid then Lord *Baltimore was*, by himſelf or Council, *heard* thereon, touching his Right and Title to the Land and Soil of the ſaid three Lower Counties.

138 But denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs, that the Plaintiffs late Father was divers, or at any time, heard before the ſaid Committee *in his own Right*, or touching any Right pretended to be *in him* to the ſaid three Counties, or either of them, or any part of them; nor did the Plaintiffs late Father *then*, as the Defendant either heard of, or believes, pretend, or inſiſt upon, any Right *in himſelf* to the ſaid three Lower Counties, or either or them, before the ſaid Committee, but ap-
139 peared, upon that occaſion, as Agent *only* for and on the behalf of the ſaid Duke of *York*, and to ſupport the Duke of *York*'s Pretenſions to the ſaid three Counties againſt the then Lord *Baltimore*, and *not* under the Pretence of any Right *in himſelf*.

Denies that he either knows, or believes, that it appears any otherwiſe, by the Regiſter Books, or any of the Proceedings of the ſaid Committee of Council or Committee of
140 Trade and Foreign Plantations; or that, in the Proſecution of the ſaid Suit, it is from time to time continually taken notice of, or expreſsly mentioned in the Minutes or ſeveral Orders made by the ſaid Committee thereon, that the then Diſpute and Difference was a Diſpute between the then Lord *Baltimore and the Plaintiffs ſaid Father*, although the Plaintiffs Father did ſome time make Uſe of the ſaid Duke of *York*'s Name therein, as holding under the Grants and Covenants for further Aſſurance of the ſaid Duke of *York*, as
141 is alledged in and by the Bill; but on the contrary, the Defendant apprehends, and doubts not but that it will appear from the ſaid Regiſter Books, and all the ſeveral Proceedings throughout the Proſecution of the ſaid Diſpute, from the beginning to the end thereof, that the Duke of *York himſelf*, by his Council, and other Agents, did aſſiſt and interpoſe in the ſaid Suit againſt the then Lord *Baltimore*'s Claim to the ſaid three Lower Counties, and that the Plaintiffs ſaid Father was *no ways concerned*, or acted, therein, otherwiſe than
142 *as Agent* to the ſaid Duke of *York*, or that any of the ſaid Proceedings before the ſaid Committee declare, *or ſo much as even Tacitely*, or otherwiſe imply, or tend to ſhew, that the Grant of the three Lower Counties, which the Duke of *York* had obtained from the Crown after the ſaid pretended Feoffment to the Plaintiffs late Father, or ſuch further Grant which he was then ſolliciting to obtain, or either of them, were in Truſt for, or for the Benefit of, the Plaintiffs late Father, as is pretended and ſuggeſted in and by the Bill.

143 Doth not know, nor can ſet forth, whether there were, or were not, ſuch ſeveral Minutes, Orders and Reports, of ſuch particular and reſpective Dates, made by the ſaid Committee of Council, upon, and during the Continuance of, the ſaid Diſpute, as in the Bill are particularly ſet forth and mentioned, the Defendant not having examined the
144 Council Books, or compared the reſpective Dates, in the Bill mentioned, with the Entries thereof in ſuch Books; nor does he apprehend it at all Incumbent on him ſo to do, but begs leave to refer to the Council Books themſelves when produced, as to the ſeveral and particular Orders, Reports and Minutes that were ſo made by the ſaid Committee pending ſuch Diſpute as aforeſaid.

Hath heard, and believes it to be true, ſuch *final* Order in Council, and of ſuch Date, was made, upon the ſaid Diſpute, touching the Right to the ſaid three Lower Counties,
145 between the then Lord *Baltimore* and the Crown, as in the Bill is for that purpoſe ſet forth, but, for his greater Certainty therein, craves leave to refer to the ſaid Original Order it ſelf, or to the Entry or Minute thereof in the ſaid Council Books when produced.

Saith he is adviſed and inſiſts that the ſaid laſt mentioned Order in Council is ſo far from being an Evidence of any Right in the Plaintiffs, or their ſaid late Father, to the ſaid
146 three Lower Counties, that it makes no manner of mention of any Right pretended thereto by the Plaintiffs late Father, and the Diviſion thereby directed of the ſaid three Lower Counties is only between *his then Majeſty* and the then Lord *Baltimore*.

And the Defendant is adviſed and apprehends and inſiſts that the ſaid laſt mentioned Order in Council in 1685, could no ways legally deprive the Defendant, or his Anceſtors,
147 of the Right they had to the ſaid three Lower Counties under their Original Charter in 1632 from the Crown, which was granted upwards of 50 Years before the making of that Order in Council; and which the Defendant is likewiſe adviſed and inſiſts was inconſiſtent with two former Orders in Council, of the 3d of *July* 1633, and of the 4th of *April* 1638.

148 And apprehends the ſaid Orders in 1633 and 1638 ought to have the greater regard paid to them, becauſe it is much more likely that the Intention of the Crown ſhould be more clearly known in 1633 and 1638, ſo ſoon after the granting the ſaid Charter of *Maryland*, as to the Lands comprized in ſuch Charter, than upon a Diſpute, afterwards, ſo many Years, as in 1685.

149 Saith, for ought the Defendant knows to the contrary, it may be true that, during the ſaid Conteſt in the Years 1683, 1684 and 1685, the then Lord *Baltimore* might produce to the then Committee of Trade and Plantations, a Copy of the ſaid Order of the Committee of Foreign Plantations, dated the 4th of *April* 1638 herein before mentioned, in order
150 to ſhew that former Board's Opinion touching the ſaid Lord *Baltimore*'s Right to the ſaid three Counties, but the Defendant knoweth nothing thereof of his own Knowledge; and the Defendant is an entire Stranger to the Charge in the Bill, that ſuch Copy was not an atteſted Office Copy, and that, therefore, the Board refuſed to admit of the ſame as Evidence, or that they gave the ſaid Lord *Baltimore* time to procure an authentick and atteſted Copy thereof, or that he afterwards declared to the ſaid Board that he could
151 not find the Original, whereby an atteſted Copy might be procured; but, in caſe the Fact was ſo, *which the Defendant neither knows or believes*, it cannot, as the Defendant apprehends, conſidering all the Circumſtances, throw any Imputation upon the Reality of the ſaid Order made ſo many Years before; but the Defendant aſſuredly believes *ſuch Order was made*, and the Copy thereof, produced by the ſaid Lord *Baltimore* on the aforeſaid Occaſion, (in Caſe any ſuch was produced) was a true and exact Copy thereof, and that the
152 ſame *was not any fictitious* Paper drawn up to ſerve that, or any other, particular Purpoſe, as is moſt unreaſonably inſinuated in and by the Bill.

Saith ſuch Orders are, as the Defendant verily believes, now remaining amongſt the Office Books and Papers at and belonging to the Office of *Trade* and Plantations at *Whitehall*, where the Plaintiffs or their Agents may, if they pleaſe, peruſe and inſpect the ſame, and where the Defendant is informed, and believes, the Plaintiffs Sollicitor in this Cauſe hath peruſed and inſpected the ſame, and had Copies thereof.

153 Believes that the Plaintiffs Father had not made any very large, or very expenſive Improvements in the ſaid three Lower Counties, before the time of the ſaid laſt mentioned Order of Council of *November* 1685 was made, nor doth know or believe that the Plaintiffs ſaid late Father, or the Plaintiffs, even at this Day, and to this Hour, have made any large or expenſive Improvements in the ſaid three Counties, or either of them, or that they, or either of them, have been at *any* Expence in ſettling, improving, cultivating, or peopling
154 the ſaid three Counties, or either of them, or any part of them, or that they ever Mortgaged their Eſtate in *England*, or *America*, for that purpoſe, or that they have ruined, or diſtreſſed, or any ways impoveriſhed, their Family, by that means, as is ſuggeſted in the Bill.

But believes that the Plaintiffs late Father, and the Plaintiffs ſince his Deceaſe, may have been at *ſome Expence*, but to what amount cannot ſay or ſet forth, either as to his
155 Knowledge, or Belief, in making Preſents to, and Treating with, the Neighbouring *Indians*, or the *Indians* inhabiting near the ſaid three Lower Counties, and which the Defendant apprehends it was neceſſary for them to do in order to ſupport and promote their Trade with the *Indians*, and to keep up a good Correſpondence with them as they are Proprietors of *Penſilvania*; but denies that he either knows, or believes, that they were at any ſuch Expence on Account of the ſaid three Lower Counties, the ſame being wholly, as the Defendant believes, on Account of their own Province of *Penſilvania*, which Borders upon or Adjoins to the ſaid Counties.

156 Verily believes that the Plaintiffs, or their ſaid late Father, would not have been at any ſuch Expence, or at any Expence at all, for the Benefit or Protection of the ſaid three lower Counties, or the Inhabitants thereof, or for the promoting their Trade, and that all the Expences they were, or ever have been at, was for the Benefit, Safety, Promotion and Improvement of the ſaid Province of *Penſilvania only*, and not of the ſaid three lower Counties, or either of them.

157 Doth not know, but believes it may be true, that the Plaintiffs, or their late Father, may have Mortgaged their Lands in *America*, or their ſaid Province of *Penſilvania*, but not for the Purpoſes or Reaſons in the Bill ſuggeſted, and denies that he either knows, or believes, that they, or either of them, did, or could Mortgage the Lands of the ſaid
158 three Lower Counties, or either of them, or that any one would accept of a Mortgage of the ſame, or lend them any Money thereon, in regard, as the Defendant believes, they have no manner of Right thereto, and could not make the ſame a proper Security, or any Security at all, for any Money that might be advanced them thereon.

Doth not know, nor can ſet forth, either as to his Knowledge, or Belief, whether moſt part of the Lands in the ſaid three Lower Counties are taken up and cleared, as by the Bill
159 is ſuggeſted, or what particular Part or Quantity of the ſaid Lands in the ſaid three Lower Counties are taken up and cleared, or what Number of Plantations there may be thereon; but believes that there are *many* Towns, Villages, Churches, Meetings, Court-Houſes, Aſſembly-Houſes, Harbours, Piers, Dwelling-Houſes, and other publick and private Structures, Buildings, Edifices and Improvements built and made therein.

But denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs and their Agents, that all this has been done, or that the ſaid three Counties have been thus
160 improved, by the great and continual Pains, Labour and Induſtry, or by the many and repeated Toils and Hazards, of the Plaintiffs ſaid late Father, or of the Plaintiffs, or either of them; on the contrary, hath been credibly informed, and believes, that the ſaid Counties were firſt ſettled and improved at the Expence, and by the Care and Induſtry of, the Defendant's Anceſtors, Proprietors of *Maryland*, and the Inhabitants of the ſaid Counties themſelves, and not of the Plaintiffs late Father, or the Plaintiffs, who were at no
161 Expence therein to the Knowledge, or Belief, of the Defendant.

Knows nothing of any Purchaſes, made by the *Swedes* and *Dutch*, of any Tracts of Land within the ſaid three Lower Counties, from the *Indian* Natives, Owners and Poſſeſſors of ſuch Lands, for valuable Conſiderations, or otherwiſe, as pretended by the Bill, nor knows, or believes that any Right, to any ſuch Lands, within the ſaid three Lower
162 Counties, did, or could, paſs to, or veſt in, the Plaintiffs ſaid Father, under or by Vertue of ſuch pretended Purchaſes from the *Indians* by the *Swedes* and *Dutch*.

Neither knows any thing of any Purchaſes, by the Bill pretended to have been made by the Plaintiffs late Father, of the *Indians*, Natives and Owners of any of the Lands comprized within the Limits of the ſaid three Lower Counties, or of any Conveyance to the Plaintiffs late Father of any ſuch Lands, as is ſuggeſted by the Bill, and, therefore,
163 muſt refer to ſuch Conveyances (if any ſuch there were) when produced by the Plaintiffs, and to ſuch Proof thereof as they can make of the due Execution thereof, or paying any Conſideration for the ſame.

But is adviſed and inſiſts the Plaintiffs, or their late Father, can, or could, have no manner of Right, to any part of the Lands within the ſaid three Lower Counties, under,
164 or by Vertue of, any ſuch pretended Purchaſes or Conveyances from the *Indians*, if any ſuch there really were, and that the Defendant's Right or Title thereto, under the ſaid Original Charter of *Maryland* in 1632, can in no wiſe be affected thereby.

Doth not know, nor can ſet forth, whether the Lands, comprized in the ſaid pretended Deeds or Conveyances to the Plaintiffs Father from the *Indians* (if any ſuch there be)
165 do, or do not, of themſelves, make up three fourths of all the Lands within the ſaid three Lower Counties, or whether the other parts of the ſame three Counties have, or have

not,

not, been heretofore purchaſed by the *Swedes* and *Dutch*, the Defendant knowing nothing of ſuch pretended Purchaſes from the *Indians*, or of the Conveyances by which the ſame are pretended to have been aſſured to the Plaintiffs, or the ſaid *Dutch* and *Swedes*, or of the particular Lands comprized therein, or otherwiſe than from the Allegations of
166 the Plaintiffs Bill, by which the Defendant apprehends it is impoſſible for him, or any one elſe, to form any Judgment, or Belief, concerning the ſame, the Deſcription, made uſe of in the ſaid pretended Purchaſe-Deed from the *Indians*, of the Lands thereby pretended to be paſſed, as ſet out by the Bill, being no other but, as far as a Man can ride with a Horſe in two Days, and which may be more, or leſs, according to the goodneſs of the Horſe or Ability of the Rider, and is, as the Defendant apprehends, ſo uncertain a
167 Deſcription as can in no wiſe enable the Defendant to anſwer the Plaintiffs particular Charges relating thereto; nor is it any ways material, as the Defendant is adviſed and apprehends, to the Matters in Queſtion between the Defendant and the Plaintiffs, whether the ſaid pretended Conveyances from the *Indians* contain the whole, three Fourths, or any other particular Quantity, or part, of the ſaid three Lower Counties?

Denies that, to the Knowledge or Belief of this Defendant, any of his Anceſtors knew of any ſuch pretended Purchaſes of the Plaintiffs, or their late Father, from the *Indians*,
168 or of their peopling, ſettling or improving the ſaid three Lower Counties, as ſuggeſted by the Bill, and, therefore, could not be ſaid to have ſuffered the Plaintiffs Father to go on peaceably and quietly without the leaſt Claim or Interruption whatſoever, to make ſuch pretended Purchaſes, or to people, cultivate or improve the ſaid three Lower Counties,
169 after the ſaid Order in Council of 1685, as is alledged in and by the Bill, the Plaintiffs ſaid Father never having made any ſuch Improvements, or peopled or ſettled the ſaid three Lower Counties, or either of them, or any part of them, in the manner as is alledged by the Bill, to the Knowledge or Belief of this Defendant.

Doth not know, but believes it may be true, that the Defendant's Anceſtor, and, as the Defendant believes, the ſame Lord *Baltimore* as in the Bill is for that purpoſe named,
170 preſented a Petition to her late Majeſty Queen *Anne*, in *January* 1708, and that ſuch Petition, for ought the Defendant knows to the contrary, might be to the Effect in the Bill ſet forth; but the Defendant, not knowing the ſame of his own Knowledge, craves Leave to refer to the ſaid Petition, it ſelf, when produced.

Likewiſe believes that ſuch laſt mentioned Petition was referred, by her late Majeſty, to the Conſideration of the then Lords Commiſſioners for Trade and Plantations, about
171 the time in the Bill for that purpoſe mentioned.

Doth not know, but hath heard and believes, that the Plaintiffs late Father, about the time in the Bill for that purpoſe mentioned, preſented his Petition to her ſaid late Majeſty, in Oppoſition to the ſaid other Petition of the then Lord *Baltimore*, and praying that the ſame might be diſmiſſed, and, for ought this Defendant knows to the con-
172 trary, ſuch Petition of the Plaintiffs late Father might be to the Effect in the Bill, but this Defendant, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Original Petition when produced.

Saith, that for ought he knows to the contrary, ſuch Order might be afterwards made by her Majeſty in Council on the ſaid laſt mentioned two Petitions, as in the Bill is ſet
173 forth and mentioned, but, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Order in Council, if any ſuch there be, or the Entry thereof in the Council Books, when produced.

Saith, he doth not know of his own Knowledge, but, for ought this Defendant knows to the contrary, it may be true, that ſuch further Application, and ſuch other Petition, was afterwards made and preſented, in 1709, by the then Lord *Baltimore*, and ſuch Orders made by her late Majeſty in Council thereon, as in and by the Bill are for that pur-
174 poſe ſet forth and mentioned, but, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Petition and Orders, or the Entry thereof in the Council Books, when produced.

Denies that he either knows or believes that the Plaintiffs late Father, afterwards, or at any time during his Life, was or remained in *quiet and peaceable* Poſſeſſion of the ſaid
175 three Lower Counties, or either of them, or any part of them, *in his own Right*, as pretended by the Bill, or otherwiſe than as aforeſaid.

Hath heard, and believes it to be true, that the Plaintiffs Father departed this Life about the time in the Bill, and, for ought this Defendant knows to the contrary, he might before ſuch his Deceaſe, *duly* make and execute his laſt Will and Teſtament in Writing, of ſuch purport, and to ſuch Effect, as in the Bill is particularly ſet forth.

176 And that the Plaintiffs Mother might, afterwards, prove the ſame, in the manner in the Bill mentioned, but this Defendant knowing nothing thereof of his own Knowledge, muſt refer to ſuch Will, when produced, and ſuch other Evidence as the Plaintiffs ſhall think fit to make concerning the ſame.

Never heard of the Deed-Poll, or Appointment, by the Plaintiffs ſaid Bill ſet forth to have been made and executed by *Hannah Penn*, the Plaintiffs Mother, in purſuance of
177 the Power ſhe had or was inveſted with by the Will of the Plaintiffs late Father, or of the ſeveral Allotments or Diviſions thereby alledged to have been made by her of the Premiſſes in the Bill for that purpoſe mentioned, amongſt the Plaintiffs, otherwiſe than by the Bill, and the ſame, as he believes, being in the Plaintiffs Cuſtody or Power, he muſt therefore crave Leave to refer to the ſaid Deed-Poll, or Appointment, when produced.

178 Hath heard, and believes it to be true, that the Plaintiffs ſaid Mother *Hannah Penn*, departed this Life, about the time in the Bill for that purpoſe mentioned, and that *Dennis Penn* her Son, in the Bill named, might alſo die, an Infant, and without Iſſue, about the time as therein is mentioned.

Hath heard of the Indentures of Leaſe and Releaſe, alledged by the Bill to have been made and executed by the Surviving Truſtees of the laſt Will and Teſtament of the Plain-
179 tiffs late Father, purſuant to the Directions in the Appointment alledged to have been made by the ſaid *Hannah Penn*, but, as to the Contents thereof, muſt refer to the ſame, when produced by the Plaintiffs, being an entire Stranger thereto.

Knows nothing of the pretended Mortgage by the Plaintiffs Bill alledged to have been made by their ſaid Father *William Penn*, to *Joſhua Gee*, *John Woods*, and others, for
180 the Sum of 6600 *l.* or any other Sum, or of the ſaid pretended Mortgage having lain at Intereſt for above 20 Years, as by the Bill is ſuggeſted, or for any other Number of Years or Time, or of the Reconveyance pretended to have been made thereof by the Mortgagees in 1729, neither did this Defendant ever hear thereof, ſave from the Bill, and from their Agents, and therefore muſt refer himſelf to the ſaid Mortgage and Reconveyance, if any ſuch ever were, when produced by the Plaintiffs.

181 Denies that he either knows, or believes, or ever heard, ſave from the Bill, that the Plaintiffs upon their ſaid Mother's Deceaſe, or at any time whatſoever, either entered into, or are now, in Poſſeſſion of the ſaid three Lower Counties, or either of them, or any part of them, or of all or any of the Lands, Tenements or Hereditaments therein, under or by Vertue of the ſaid pretended Will, Appointment, Conveyance, Mortgage, and Reconveyance, as by the Bill is untruly ſuggeſted, nor doth know or believe that the Plain-
182 tiffs, or either of them, have any Right or Title thereto under ſuch pretended Will, Appointment, Conveyance, Mortgage, or Reconveyance, or otherwiſe howſoever.

Denies that he either knows or believes that the ſaid *Hannah Penn*, after the Deceaſe of the ſaid *William Penn*, did enter into, or from the time of the death of the ſaid *William Penn*, down to the time of her own death, was in the quiet and peaceable Poſſeſſion of, the ſaid three Lower Counties, or of all the Lands, Tenements, and Heredita-
183 ments therein, or any part thereof, *in her own Right*, or as a Truſtee, or in Right of, the Plaintiffs, or either of them, as by the Bill is ſuggeſted, or in any other manner whatſoever than as Intruders upon the Right and Property of this Defendant and his ſaid Anceſtors, and ſubject thereto, and to the Right claimed thereto by the Crown as aforeſaid.

Neither doth know or believe, or ever heard, ſave from the Plaintiffs, that the ſaid *William Penn*, in his Life-time, or the ſaid *Hannah Penn*, after his death during her Life,
184 or the Plaintiffs ſince her death, down to the time of the Plaintiffs ſaid Bill, or ſince, reſpectively, and frequently from time to time as Occaſion required, appointed Deputy or Lieutenant-Governors of the ſaid three Lower Counties, *in the manner pretended* and ſuggeſted by the Bill, or in any other manner whatſoever than as before mentioned and ſet forth by this Defendant.

185 Or that they, or either of them, begun, continued, or carried on the great Improvements now in being thereon at their own ſole and prodigious Expence, as pretended by the Bill, or that they, or either of them, were at *any* Expence on that Account, other than what they were obliged neceſſarily to be at for the Benefit and Safety of their ſaid Province of *Penſilvania*.

Believes that the Plaintiffs, and their ſaid late Father and Mother, were ſo well apprized and conſcious of the Right of this Defendant, and his ſaid Anceſtors, to the ſaid three
186 Lower Counties, and of the Weakneſs and Injuſtice of their Pretenſions thereto, that they would never have put themſelves to *any* Expences for the improving or cultivating the ſaid three Lower Counties upon ſo precarious and illegal a Pretence as they ſet up to the ſame, and which they muſt, as the Defendant believes, be ſenſible they could never ſupport when properly and legally conteſted.

Denies that he ever made ſuch Application to the ſaid *Hannah Penn*, for ſetting out and deſcribing of the Bounds of the ſaid other Province of *Maryland* and *Penſilvania*,
187 during the Infancy of the Plaintiffs, as is alledged and ſuggeſted in and by the Bill, or at any other time or times whatſoever, or that he this Defendant then, or at any other time
188 or times whatſoever, or upon any Occaſion whatever, admitted to the ſaid *Hannah Penn*, or to any other Perſon whatſoever, that he had no Right or Title to the ſaid three Lower Counties, or to any part of them, as is untruly alledged by the Bill; on the contrary, ſaith, he this Defendant, and all and every of his Anceſtors the Lords *Baltimore*, to the beſt of his Knowledge and Belief, always, from time to time, and upon every Occaſion, claimed, maintained and ſupported their Right and Title to the ſaid three Lower Counties, and every part of them, in the beſt manner they were able, and never, in any manner whatſoever, admitted they had no Title thereto, and have been at very great Ex-
189 pence from time to time *in ſupporting their Right thereto*, by Building of Fortifications in the ſaid three Lower Counties, to defend the Inhabitants thereof from the *Indians*, and in improving and cultivating the ſame.

Denies that he, to the beſt of his Knowledge, Remembrance and Belief, ever made any ſuch Repreſentation or Propoſals to the ſaid *Hannah Penn*, or to any ſuch or the like Effect, as is untruly ſuggeſted in and by the Bill, or that any ſuch Agreement was, thereupon, made, entered into or executed by and between the ſaid *Hannah Penn* and this De-
190 fendant as by the ſaid Bill is ſuggeſted; but believes it to be true that the ſaid *Hannah Penn*, by her Self and Agents, and others on her behalf, did apply to this Defendant, about the Year 1723, and made ſome ſuch or the like Repreſentation and Propoſals to this Defendant, as the Plaintiffs by their ſaid Bill ſuggeſt this Defendant made to her, and deſired
191 and requeſted this Defendant to enter into an Agreement in Writing, in Order to ſettle the Boundaries of the ſaid two Provinces of *Maryland* and *Penſilvania*, and for the Prevention of all Contention and Differences between the Inhabitants of the ſaid Provinces in the mean time.

And this Defendant, thereupon, and at the earneſt Requeſt and Deſire of the ſaid *Hannah* and others on her behalf, conſented to enter into ſome Treaty of Agreement for that purpoſe.

192 And he this Defendant did, accordingly, afterwards, to that end, and about the time in the Bill mentioned, to the beſt of his Remembrance and Belief as to the time, enter into and execute an Agreement with the ſaid *Hannah Penn*, to the Purport and Effect in the Bill particularly ſet forth, but for his greater certainty thereof craves Leave to refer thereto, when produced.

And believes that one Part of ſuch laſt mentioned Agreement was executed by the ſaid *Hannah Penn* and the other Perſons in the Plaintiffs Bill for that purpoſe named, and de-
193 livered to this Defendant, but, not having the ſame in his Cuſtody or Power, cannot ſet forth the ſame as is prayed by the Plaintiffs Bill, but as to the Contents thereof refers to that Part thereof in the Plaintiffs Cuſtody, when produced.

Hath heard and believes that ſuch Proclamations were, afterwards, duly publiſhed in the ſaid Provinces of *Maryland* and *Penſilvania*, by the Deputy-Governors thereof, in
194 Purſuance and Performance of the ſaid Agreement, and about the times, in the Bill particularly ſet forth, and that ſuch Proclamation publiſhed by the Deputy-Governor of *Maryland* was mentioned to be publiſhed by the Directions of this Defendant.

Hath heard, and believes it to be true, that Matters remained at quiet, under the ſaid laſt mentioned Agreement, not only during the 18 Months therein mentioned, but for a much longer time, in Vertue and Conſequence, and under the true Intent and Meaning and Equity of the ſaid Agreement, as by the Bill is alledged.

195 But denies that he either knows, or believes, that the Plaintiffs late Mother, or the Plaintiffs, on their Parts, juſtly and truly obſerved the ſaid Agreement, by not granting out or pretending to grant out any Lands near to the Borders of *Penſilvania* or *Maryland*, or in the manner by the Plaintiffs Bill pretended; on the contrary, ſaith he hath heard and believes that the Plaintiffs late Mother, during her Life-time, and the Plaintiffs after her Deceaſe, and pending the Continuance of the ſaid laſt mentioned Agree-
196 ment, frequently granted out Lands, near the Borders of the ſaid Provinces, and Lands within the ſaid three Lower Counties, *without any legal Right or Authority* for their ſo doing, and with a View and Deſign of defeating and depriving this Defendant of his Right and Title to the ſaid three Counties, and of extending their Grants and Settlements far beyond the true Limits and Bounds of their ſaid Grant or Charter of *Penſilvania*, and in direct Breach and Oppoſition of the ſaid Agreement, to the great Wrong and Injury of this Defendant.

197 Denies that the exact Marks and Bounds of the ſaid Provinces of *Maryland* and *Penſilvania*, not being markt out purſuant to the Deſign and Intention of the ſaid laſt mentioned Agreement, was any ways occaſioned by any Neglect in this Defendant, this Defendant being then ready to have done it, on his part, and amicably to have adjuſted all Matters then in Difference or Diſpute between this Defendant and the Plaintiffs or their ſaid Mother; and the not doing the ſame was wholly occaſioned by the then neglect of the Plaintiffs and their ſaid late Mother.

198 Saith that he, on his Part, obſerved and performed the ſaid Agreement, in every reſpect, as far as he was able, and was then, on his Part, ready to have carried the ſame into Execution, if the Plaintiffs, or their ſaid late Mother in her Life-time, would have concurred with him therein.

Denies that he either knows, or believes, that the Plaintiffs ſaid Mother, or the Plaintiffs, or either of them, did juſtly and honeſtly fulfil and perform the ſaid Agreement, on
199 their Parts, according to the true intent and meaning of the ſame, as by the Bill is ſuggeſted, but ſaith that he did, on his Part, fully and truly, and in all points and in every reſpect perform and fulfil the ſame.

Denies that he did, by himſelf, or any of his Governors, Commiſſion Officers, and other Servants, to the beſt of his Knowledge and Belief, from the time of his firſt entering into
200 the ſaid Agreement, or at any time pending the Continuance thereof, make many, or any large or extenſive Warrants, or Grants of great Quantities of Lands, to ſundry Perſons, without ſpecifying where or in what Places the ſame were to lie, *with intent* that ſuch Grantees ſhould ſeat down upon, or take up, any Lands belonging to the Plaintiffs, or either of them, or their ſaid late Mother, or any of their Anceſtors, as is untruly alledged in the Bill, or *with any View*, or Deſign of extending his Settlements beyond the true Limits
201 and Bounds of the Grant made to the ſaid *Cecilius*, this Defendant's Anceſtor.

Saith

And whether he did not, in Perſon, before the Lords Commiſſioners for Trade and Plantations, expreſsly declare that he meant and intended, by his laſt mentioned Petition, to pray his Majeſty for a Grant of the three lower Counties, and did not in ſuch Words mean the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*.

435 And why, and with what Views and Deſigns, in his ſaid Petition, he mentioned neither the Plaintiffs, nor their Father, nor the ſaid Province of *Penſilvania*, nor the ſaid three lower Counties by Name, nor ſet forth therein any thing at all relating to the ſaid Agreement of *May* 1732, and why he aſſerted therein that there was ſuch a Report or Order in Council of the 4th of *April* 1638 relating to the ſaid *William Clabourne* and the Iſle of *Kent*, when his Grandfather had in Perſon declared, about 50 Years before, that there was
436 no ſuch Original Order?

And why, in inſerting in his laſt mentioned Petition the Account of what was done in the Year 1685 as aforeſaid, he omitted and concealed thoſe very material Words, in the *Heart* of the Report of the then Committee for Trade and Foreign Plantations, which imported *that the Tract of Land then in Diſpute had ever ſince from the Date of the ſaid*
437 *Patent for* Maryland *in* 1632 *been inhabited and planted by Chriſtians and had continued as a Diſtinct Colony from that of* Maryland?

And why he concealed, in his ſaid laſt mentioned Petition, the *old Poſſeſſion*, and *great Improvements*, made by and under the Plaintiffs and their ſaid late Father?

And whether the Defendant did not, and doth not, think, and in his Conſcience believe, that thoſe Facts, ſo by him omitted and concealed in his ſaid Petition, were true, and proper and material Facts to be laid before his Majeſty and his Miniſters, or not?

438 And whether the Plaintiff *John Penn* was not gone for *America*, at the time the Defendant preſented the ſaid laſt mentioned Petition to his Majeſty?

And whether the Defendant did not propoſe and expect ſome Advantage to himſelf, by the Abſence of the Plaintiffs *John Penn* and *Thomas Penn*?

And whether the Defendant did preſent the ſaid laſt mentioned Petition to his Majeſty in order to obtain a Grant of the ſaid three lower Counties *for himſelf*, and for his own
439 Uſe, Benefit, and Advantage, or, for the Uſe and Benefit of the Plaintiffs and as a Truſtee for them?

441 And in Caſe he meant and intended and hoped to obtain a Grant of the ſame for himſelf, that the Defendant may ſet forth why, and for what Reaſons, he never gave the leaſt Notice of ſuch his laſt mentioned Petition to the Plaintiffs, or any of them, or any Agent of theirs, but carried on the ſame *privately* and wholly unknown to the Plaintiffs.

And whether there have not been ſuch Orders, Proceedings, Petitions and Reports, founded on the ſaid laſt mentioned Petition of the Defendant, as are herein before mentioned
442 and ſet forth, or what others, and to what Effect and Purpoſe?

And whether the Defendant does admit that the ſaid Agreement of the 10th of *May* 1732 does now exiſt, and ſubſiſt in full Force and Virtue, or whether he does inſiſt that the ſame is abſolutely void?

And, in Caſe he inſiſts that the ſame is void, that, then, he may ſet forth, minutely, exactly and particularly, why, and for what Reaſons, he inſiſts the ſame is void?

443 And that the Defendant may ſet forth and diſcover whether it is not as eaſy and as practicable (in a proper Seaſon of the Year) *now* to run, mark and lay out the Bound-Lines, agreed upon by the ſaid Articles of the 10th of *May* 1732, as it was between the Month of *October* 1732 and *Chriſtmas* 1733, or what *new* Difficulties have, ſince the laſt men-
444 tioned time, ariſen to make that Work more Difficult, or leſs Practicable, now, than at that time?

And how long Space of Time, as he believes, would be really neceſſary for Commiſſioners, that would proceed with Fairneſs, Candour and Diſpatch, to run out all the ſeveral Lines and Bounds purſuant to the ſaid Agreement of *May* 1732, in caſe no Difference, or pretended Difference, in Judgment aroſe between them?

Relief prayed.

1. And that the Plaintiffs may be at liberty to examine their Witneſſes, whom they charge are very aged and infirm and likely to die, to *perpetuate their Teſtimony*,

445 2. And that the Plaintiffs may be *quieted in the Poſſeſſion* of the three lower Counties, which have ſo often as aforeſaid been adjudged not to be compriſed within the Bounds granted as above mentioned to the ſaid *Cecilius* Lord *Baltimore*, by that Juriſdiction which, in the laſt reſort, determines all Queſtions concerning Property in any of his Majeſty's Plantations in *America*,

446 3. And that the Defendant may be decreed to *deſiſt from giving them any further Trouble*, or Moleſtation by renewing the ſaid old, and heretofore often over-ruled, Claims to the ſame,

4. And that the ſaid recited *Articles* of Agreement, of the 10th of *May* 1732, may *be decreed* and declared to exiſt and *ſubſiſt and to be in full Force and Virtue*,

5. And may be *decreed to be* forthwith *ſpecifically performed*, and to be carried into full Force and Execution, in all Points and Reſpects whatever,

447 6. And that all neceſſary and *proper Directions* may be given, in order thereto (the Plaintiffs hereby offering to do every thing which ſhall be adjudged neceſſary, on their Parts, in order to the ſame,)

7. And that the ſaid pretended *Doubts*, as to the fixing *a Center* for the ſaid Circle round the ſaid Town of *Newcaſtle*, and as to the *Dimenſions of the ſaid Circle, or Diſtance from the ſaid Town*, at which it is to be marked out, and *any other Doubt*, or pretended Difficulty, that the Defendant hath, or pretends to have, relating to the ſaid Articles of Agree-
448 ment, or any thing therein contained, or the Execution and Performance of the ſame, may be removed and cleared up, by the Authority and Decree of this Court (the Plaintiffs hereby Offering to fix the ſaid Center in the *Middle* of the ſaid Town of *Newcaſtle*,)

8. And that the Defendant may *now*, inſtantly, *and* may, *again*, after the ſaid Lines and Bounds ſhall be run, mark'd and laid out, in a more certain and particular manner,
449 purſuant to his Covenants and Agreements in the ſaid recited Articles of Agreement contained, *make further* and better *Aſſurances* and Conveyances to the Plaintiffs, their Heirs and Aſſigns of the ſaid Province of *Penſilvania*, and of the ſaid three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, to be bounded, and bounded, according to the true Intent and Meaning of the ſaid Articles of Agreement of the 10th of *May* 1732, and of all his Right, Intereſt, Pretenſions, Claim and Demand in and to the ſame; ſuch Conveyances and Af-
450 ſurances to be ſettled, in caſe the Parties differ about the ſame, by a Maſter of this Honourable Court (the Plaintiffs hereby offering, on their Parts, to make *reciprocal Aſſurance* and Conveyances of the ſaid Province of *Maryland*, to be ſo bounded as aforeſaid, and of all their Right, Intereſt, Pretenſions, Claim and Demand in and to the ſame, unto the Defendant, his Heirs and Aſſigns,)

9. And that the Defendant may be decreed to pay to the Plaintiffs all the *Coſts and Expences, of their ſaid Commiſſioners*, and otherwiſe, relating to the executing the ſaid Agreement
451 of *May* 1732, and *likewiſe all the* Coſts which the Plaintiffs have been, any way, put to, by reaſon of the Breach and Non-Performance on the Part of the Defendant of the ſaid recited Articles of Agreement of *May* 1732, and by reaſon of the ſaid Petition of the Defendant preſented to his Majeſty on the ſaid 8th of *Auguſt* 1734,

452 10. And that the Plaintiffs may have all ſuch *further and other Relief*, in the Premiſes, and in ſuch *other* manner, as ſhall be conſiſtent with Juſtice and Equity.

11. And may have *a perpetual Injunction*, to quiet the Plantiffs, and their Grantees, Tenants and Occupiers, claiming by Titles under the Plaintiffs, or under thoſe from whom the Plaintiffs claim and derive Title as aforeſaid, in the peaceable Poſſeſſion and Enjoyment of the ſaid Province of *Penſilvania*, and the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, to be bounded, and bounded, as aforeſaid,

12. And to have Writs of Injunction, and Writs of Subpœna.

Is the Bill.

1735. *May* 16. The Order in Council was made, at leaſt giving leave, if not directing, that ſuch a Bill ſhould be brought.
June 21. In five Weeks time afterwards, this very long Bill was drawn and filed.
25. The Defendant was ſerved with an Office Copy of the Bill and a Subpœna to Anſwer.
July 1. The Plaintiffs obtained an Order for a Sequeſtration unleſs Cauſe, for want of an Appearance.
29. The Plaintiffs obtained another Order for a Sequeſtration unleſs Cauſe, for want of an Anſwer.
Aug. 2. The Defendant moved and obtained an Order to refer our Bill for Scandal and Impertinence.
Oct. 11. The Plaintiffs moved and obtained an Order that the Maſter ſhould proceed on that Reference *de die in diem*.
1736. *May* 25. Maſter *Eld* reported our Bill not Scandalous nor Impertinent.
Dec. 18. The Plaintiffs obtained an Order to amend, and did amend, their Bill.
1737. *June* 15. The Defendant, above two Years after the Bill filed, put in his Anſwer, having ſpun out that time by his Reference for Scandal and Impertinence, and by Privilege of Parliament.

Defendant's Anſwer, Sworn 15 June 1737.

BELIEVES that there is, in *America*, a certain Tract of Land or Peninſula, ſhooting out from the main Continent, Southward, unto the *Atlantick* Sea or Ocean; and, for ought this Defendant knows to the contrary, and as this Defendant has heard and believes, the ſaid Peninſula or Tract of Land is bounded, on the Weſt, Eaſt, South, and North Sides thereof, as in the Bill is for that Purpoſe particularly ſet forth and deſcribed.

Hath heard, and believes it may be true, that the great River or Bay of *Delaware*, in the Plaintiffs ſaid Bill mentioned, runs between the ſame Peninſula or Tract lying on the Weſt Side thereof, and the Territory now called *Weſt-New-Jerſey* lying on the Eaſt part thereof.

4 And that the ſaid *Weſt-New-Jerſey* might be, heretofore, called, ſucceſſively, *New-Belgia*, *New-Netherlands*, and *New-England*, as in the Bill is alledged.

But ſaith that he doth not know, nor can he ſet forth, by whom the ſaid Peninſula, or Tract or Parts contiguous thereto, were firſt diſcovered, or the time *when* they were firſt diſcovered; nor whether Capt. *John Smith*, an *Engliſhman*, in the Bill named, was the *firſt* Diſcoverer thereof, about the time in the Bill for that purpoſe mentioned, or at any
5 other, or what time; never having ſo much as heard the ſame, or had any Account of the ſaid Capt. *Smith*'s being the firſt Diſcoverer thereof, ſave from the Bill.

Nor can ſet forth whether the ſaid Capt. *Smith* did, or did not, give or affix Names to ſeveral, or any, of the Places on that part of the main Continent which lay over againſt
6 the ſaid Peninſula on the Weſtern Side of the Bay of *Cheſopeake*, as in the Bill is ſet forth; the Defendant, if Capt. *Smith* ſo did, being an entire Stranger thereto, not having ever heard of the ſame ſave by the Bill.

Doth not know, nor can ſet forth, whether the ſaid Capt. *Smith*, at any time after his return from his pretended Voyage in the Bill mentioned, did, or did not, cauſe to be
7 printed and publiſhed a Book, giving any Account of his Voyages and Diſcoveries, as in the Bill is alledged; nor, if the ſaid Capt. *Smith* did cauſe ſuch Book to be printed and publiſhed, whether ſuch Book was printed in or about the *time* in the Bill for that purpoſe mentioned, or at any other time, or when, or whether he annexed to ſuch Book a Map or Plan of the ſaid Peninſula, or of any of the adjacent Parts of what was then called by the general Name of *Virginia*, or whether he intitled his Book as in the Bill is for that purpoſe particularly mentioned and ſet forth.

8 Though he hath heard and believes *there is ſuch a Book* extant, and in print, as is deſcribed by the Bill, and therein alledged to have been printed and publiſhed by the ſaid Capt. *Smith*; but as the ſame purports, and appears, from the Title thereof, as ſtated and ſet out in the Bill, to have been printed and publiſhed now upwards of 100 Years ſince,
9 cannot take upon him to ſay, or ſet forth, whether the ſame was ſo printed and publiſhed by the ſaid Capt. *Smith* at the time, or in the manner, in the Bill mentioned, or, whether the ſame was not printed and publiſhed by any other Perſon, under Colour of the ſaid Capt. *Smith*'s Name, and without his Knowledge or Conſent, in order to give the better Authority to the ſaid Book, and to promote the Sale thereof for the Benefit of the Author, or Publiſher thereof.

10 But, whether the ſaid Book is a well known Book among Hiſtorians, Geographers and Mathematicians, or of what Authority or Eſteem the ſame may be in amongſt them, nor whether the ſaid Book and the Map of *Virginia* therein contained, are held in any, or what, Eſtimation amongſt learned Men, nor whether the ſame are by them, or any one elſe, reckoned and eſteemed as the *firſt* and earlieſt Account and Deſcription, or Map, ever given of thoſe Parts in and near to the ſaid Peninſula by any *Engliſhman* whatſoever, as
11 in the Bill is ſuggeſted, this Defendant doth not know, nor can ſet forth; this Defendant having but very little Knowledge of the ſame himſelf, and never having heard much concerning the ſame.

Nor can this Defendant ſet forth whether the ſaid Map of *Virginia*, thereto annexed, contained the Degrees of Longitude and Latitude according to the beſt Obſervations and Diſcoveries *then* made.

But ſaith he hath been credibly informed, and believes, that the ſaid Map hath been, many Years ſince, found by Experience, to have been, in many reſpects, faulty and er-
12 roneous, and by no means a true or correct Map thereof, and in no wiſe to be depended upon.

And is adviſed and apprehends that all this Part of the Plaintiffs Bill, touching who was the firſt Diſcoverer of the ſaid Peninſula, and in relation to the ſaid Capt. *Smith*, and the ſaid Book and Map pretended to be publiſhed by him, are wholly immaterial, and no ways relative to any of the Matters in Queſtion in this Cauſe.

13 Believes it to be true that the three lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, in the Bill deſcribed and mentioned, are ſituate *on the Eaſtern* Side of the ſaid Peninſula or Tract, and alſo *above* the Peninſula or Tract, within the main Land or Continent, and, towards the Sea and the Eſtuary of *Delaware*, as in the Bill is ſet forth.

But denies that he either knows, or believes, or hath ever heard, that the ſaid three Counties have been *ever* called, or went under the general Name of, the Territories belong-
14 ing to *Penſilvania*; the ſaid Counties, or any Part of them, or either of them, having never, to the beſt of this Defendant's Knowledge or Belief, been looked upon, or eſteemed,

to be any Part of, or to belong to, *Penſilvania*, or the Territories thereof, by any other Perſons than the Family of the *Penns* themſelves, and their Dependants and Adherents, whoſe Intereſt it was to endeavour to have them thought or eſteemed Part of *Penſilvania*.

15 Nor does this Defendant know or believe, nor did he ever hear, ſave from the Family of the *Penns*, and their Dependants and Adherents, and ſave from the Bill, that the Territories belonging to *Penſilvania* did, or could, or does, ſignify and mean, or comprehend, or include, the ſaid three lower Counties, or any part of them or either of them.

Doth not know, nor can ſet forth, whether the ſaid three lower Counties were ever called or comprehended under the Name of the Settlement on *Delaware*, or by the Name
16 only of *Delaware*, or at other times by the Name of the Province of *Delaware*, this Defendant having never heard the ſame ſo called, or called by any other Name or Names than the three lower Counties on *Delaware*, or the Counties of *Newcaſtle*, *Kent*, and *Suſſex*, and if they ever were called, or comprehended, under the Names in the Bill mentioned, this Defendant believes it muſt have been a great many Years ago, and in the Infancy of their Settlement, and before any conſiderable Parts thereof were inhabited or cul-
17 tivated; nor is at all Material, in the Judgment and Belief of the Defendant, by what Name or Names they may have been called.

Denies that he either knows, or ever heard, otherwiſe than by the Bill, or believes, that the ſaid three lower Counties on *Delaware*, of *Newcaſtle*, *Kent*, and *Suſſex*, were, of very early and ancient Times, the beginning whereof is not known (as is pretended by the Bill) ſettled, planted and inhabited by Chriſtians of the *Swediſh* Nation, or that the ſame
18 were afterwards held and inhabited, for many Years, by Chriſtians under the Dominion of the States General of the *United Provinces*, in the manner as in the Bill is for that purpoſe ſet forth and mentioned.

But, on the contrary, hath always underſtood and believes, the ſame were *not* ſettled, planted and inhabited by Chriſtians at any time before, or until after, the Grants thereof to this Defendant's Anceſtor by his Majeſty King *Charles* the Firſt, as herein after is more particularly ſet forth.

19 But ſaith he hath heard and believes that ſome few itinerant *Swediſh* and *Dutch* Traders did, now and then, viſit, and reſort to, ſome ſmall and inconſiderable Part of the ſaid three Counties, antecedent to the ſaid Grant; but never heard, or believes, that the ſaid *Swedes* or *Dutch*, or any other Chriſtians whatever, had ever formed, or made, any abiding Settlement there before the ſaid Grant thereof to the Defendant's ſaid Anceſtor as herein mentioned; all the Chriſtians there being only a few *Swediſh* and *Dutch*, ſtraggling,
20 itinerant Traders, that now and then reſorted to part of the Skirts or Borders of the ſaid Counties, for the Benefit and Conveniency of Trade with the Natives.

And is adviſed, and conceives, it is wholly immaterial, as to any Queſtion that can ariſe between him and the Plaintiffs, whether the ſaid Tract of Land was, or was not, inhabited by Chriſtians antecedent to the ſaid Grant.

21 Neither knows, believes or ever heard, ſave from the Plaintiffs or their Agents, and the preſent Bill, that the ſaid Counties have, ever ſince the Year 1663, been in the quiet Poſſeſſion of the late *James* Duke of *York*, and of the Plaintiffs Father, and of the Plaintiffs in their own Right, as is untruly alledged in and by the Bill, or that the Complainants have now any *Right* to the Poſſeſſion thereof.

22 On the contrary, ſaith, he this Defendant, ever ſince he came of age, and his Anceſtors, before him, as he hath heard and believes, have, all along, ever ſince the Grant of the ſaid three Counties to his Anceſtor as aforeſaid by King *Charles* the Firſt, and both before, and after, the ſaid Year 1663, from time to time, aſſerted, ſupported and maintained, to the utmoſt of their Ability and Power, the *Right* and *Title* to the Poſſeſſion of the ſaid three Counties; and this Defendant's ſaid Anceſtors did, and exerciſed, *Acts*
23 of Ownerſhip thereon, and received Rents from ſeveral of the Tenants and Inhabitants thereof, and were at very great Expences and Charges in Improving and Cultivating the ſame, and in *driving out*, and defending themſelves from, the barbarous *Indians* and Natives that firſt inhabited there, before the ſame was known or found out by any Chriſtian Settlers, to the Knowledge or Belief of this Defendant.

Saith that, in or about the Year of our Lord 1632, *Cecilius*, then Baron of *Baltimore*, did petition his late Majeſty King *Charles* the Firſt, praying leave to tranſport a Colony of
24 the *Engliſh* Nation into *America*, and believes it may be true that the ſaid *Cecilius*, then Lord *Baltimore*, might, in his ſaid Petition to King *Charles* the Firſt, ſuggeſt that the parts of *America*, he ſo prayed to have Liberty to tranſport an *Engliſh* Colony into, was *not then cultivated* and planted, though in certain Parts thereof inhabited by certain barbarous People having no Knowledge of Almighty God, and, therefore, beſought his Majeſty to Give and Grant to him, the ſaid *Cecilius*, and his Heirs for ever, all ſuch *the*
25 *ſaid* Country in his ſaid Petition mentioned, with certain Priviledges and Juriſdictions for the Government thereof, as in the Plaintiffs ſaid Bill is for that purpoſe ſet forth and mentioned; but this Defendant, having never ſeen ſuch Petition, cannot, with any certainty, anſwer or ſet forth whether the ſame was ſo or not, though, from the Words of the Grant, made upon ſuch Petition, and herein after particularly ſet forth, this Defendant believes the Plaintiffs Allegations in their ſaid Bill, with reſpect to the ſaid Petition of
26 the ſaid *Cecilius* then Baron of *Baltimore*, may be true.

Likewiſe admits that, thereupon, his late Majeſty King *Charles* the Firſt, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter* the 20th Day of *June*, in the Year 1632, did Give and Grant, unto the ſaid *Cecilius*, in Fee, *two ſeveral Tracts* of Land, namely, *one Tract* which was part of the before-mentioned Penin-
27 ſula, and *one other* Tract of Land which was part of the *Main Land*, lying Weſtward of the ſaid Peninſula, and on the Weſt ſide of the ſaid Bay of *Cheſopeake*; the reſpective Buttals and Boundaries of which ſaid two ſeveral Tracts of Lands, ſo granted to the ſaid *Cecilius*, by the ſaid Letters Patent of his Majeſty King *Charles* the Firſt, are particularly ſet forth and deſcribed in the ſaid Letters Patent under the Great Seal of *England*, now in Defendant's Cuſtody and ready to be produced as this Honourable Court
28 ſhall pleaſe to direct; and which Letters Patent, as the Plaintiffs by their Bill have required this Defendant to ſet forth the ſame verbally and literally from the beginning thereof unto the firſt *Habendum* therein, this Defendant ſaith he hath, accordingly, herein ſet forth the ſame; and likewiſe, in regard that the *Habendum* or granting part of the ſaid Grant tends to explain the firſt or the reciting Part thereof, which cannot be ſo clearly or ſo well underſtood, without the *Habendum*, this Defendant hath, therefore, ſet forth
29 the ſaid Grant or Letters Patent, Verbatim, down to the end of the *Habendum*; the ſame, to the beſt of this Defendant's Knowledge, Examination and Belief, being verbally and literally, and the Words of the ſaid Original Charter reſpectively written *at* length and abbreviated, as follows (*Viz.*)

Rex, *&c.* Omnibus ad quos, *&c.* Salutem. Cum perdilectus et perquam fidelis ſubditus noſter, *Cecil Calvert*, Baro de *Baltimore* in Regno noſtro *Hiberniæ*, filius & hæres *Georgii Calvert* Militis, nuper Baronis de *Baltimore* in eodem regno *Hiberniæ*, patris inhærens veſtigiis laudabili quodam et pio Chriſtianæ religionis pariter, & imperii noſtri territor' dilatandi ſtudio flagrans, licentiam noſtram, ut copioſam Anglicanæ gentis Coloniam, induſtria & impenſa ſua, ad certam quandam regionem, *inferius deſcribendam*, in
30 terra quadam, in partibus *Americæ*, *hactenus inculta*, & barbaris nullam divini Numinis notitiam habentibus in partibus occupata, deducere poſſit, totamque *illam* regionem, cum certis quibuſdam privilegiis, & juriſdictionibus, ad coloniæ ſuæ, & regionis prædictæ ſalubre regimen & ſtatum pertinentibus, a regia noſtra celſitudine, ſibi & hæredibus ſuis
31 dari, concedi & confirmari, humiliter ſupplicaverit; *Sciatis igitur* quod nos, pium et nobile, præfatorum Baronum de *Baltimore*, propoſitum & ſtudium, regio favore proſequentes, ex gratia ſpeciali, certa ſcientia & mero motu noſtris, dedimus, conceſſimus & confirmavimus, & per hanc præſentem chartam noſtram, pro nobis, hæredibus & ſucceſſoribus noſtris, præfato *Cecil'* modo Baroni de *Baltimore*, & hæredibus & Aſſignatis ſuis, damus, concedimus & confirmamus *Totam illam partem peninſulæ*, ſive cherſoneſus, jacentis in partibus *Americæ*, inter *oceanum* ex oriente, & Sinum de *Cheſopeake* ab occidente, a reſid' ejuſdem, per rectam lineam a promontorio ſive capite terræ vocato *Watkin's*
32 *Point* juxta ſinum prædictum prope fluvium de *Wighco*, ſcituat' ab occidente, uſque ad magnum oceanum, in plaga oriental' ductam, diviſam; Et, *inter* metam illam a meridie, *uſque ad partem illam æſtuarii de* Delaware, *ab aquilone*, *quæ ſubjacet quadrageſimo gradui latitudinis Septentrionalis*, ab æquinoctiali, *ubi terminatur Nova Anglia*; Totumque illum terræ tractum, *infra metas ſubſcriptas*; Viz. tranſeundo, a dicto æſtuario vocato *Delaware Bay*, recta linea, per gradum prædictum, uſque ad verum me-
33 ridianum primi fontis fluminis de *Pattowomack*, deinde, vergendo, verſus meridiem, ad ulteriorem dicti fluminis ripam, &, eam ſequendo, qua plagam occidentalem & meridionalem ſpectat, uſque ad locum quendam, appellatum *Cinquak*, prope ejuſdem fluminis oſtium ſcituatum, ubi in præfatum Sinum de *Cheſopeake* evolvitur, ac, inde per lineam breviſſimam, uſque ad prædictum promontorium, ſive locum, vocatum *Watkin's Point*, (ita quod totius terræ tractus per lineam prædictam, inter magnum oceanum & *Watkin's Point* divis' uſque ad promontorium vocatum *Cape Charles*, & ſingula ſua appenditia, nobis, hæredibus & ſucceſſoribus noſtris, integre remaneant excepta, imperpetuum) *Necnon*
34 omnes inſulas, et inſululas, infra limites prædictos. *Concedimus etiam*, & confirmamus, eidem Baroni de *Baltimore*, hæredibus & Aſſignatis ſuis, omnes & ſingulas inſulas, & inſululas, ab orientali prædictæ regionis littore orientem, verſus in mari, natas, vel naſcendas, infra decem leucas marinas, ab eodem littore ſcituatas, cum omnibus & ſingulis portubus, navium ſtationibus, æſtuariis, fluminibus, & fretis, ad regionem, vel inſulas, prædictas, pertinentibus; *omneſque* fundos, terras, campeſtria, ſilvas, montana, paludes,
35 lacus, flumina, æſtuaria, & freta, infra metas, terminos & limites prædictos, ſcituata, ſeu exiſtentia; cum cujuſcunque generis piſcium, tam balænarum, Sturgeonum & aliorum, regalium quam aliorum, in mari, ſinubus, fretis vel fluminibus infra præmiſſa, piſcationibus, & piſce ibidem capt'; *Omneſque* inſuper auri, argenti, gemmarum, lapidum
36 precioſorum, & aliorum, quaſcunque, ſive lapidum, ſive Metallorum, ſive alterius cujuſcunque rei aut materiæ, venas, mineras, & fodinas, tam apertas quam occultas, infra regionem, inſulas, ſeu limites prædictos, repertos & reperiendos; Et hoc amplius omnium eccleſiarum, quas (creſcente Chriſti cultu & religione) infra dictam regionem, inſulas, & inſululas, & limites prædictos, futuris temporibus ædificari contigerit, patronatus & advocationes; *Una cum* licentia & facultate eccleſias, capellas & oratoria, in locis infra præmiſſa congruis & idoneis, extruendi & fundandi; *eaque* dedicari & ſacrari juxta leges eccleſiaſticas regni noſtri Angliæ faciendi; *cum* omnibus & ſingulis hujuſmodi, ac adeo
37 amplis juribus, juriſdictionibus, privilegiis, prærogativis, regalitatibus, libertatibus, immunitatibus, juribuſque, regalibus & franchefiis, quibuſcunque, temporalibus, tam per mare quam per terram, infra regionem, inſulas, inſululas, & limites prædictos, habend' exercend' utend' & gaudend' prout aliquis Epiſcopus Dunelmenſis, infra Epiſcopatum ſive Comitatum Palatinum Dunelmenſis in regno noſtro Angliæ, unquam antehac habuit, tenuit, uſus vel gaviſus fuit, ſeu de jure habere, teneri, uti vel gaudere debuit aut potuit, *Ipſumque* modo Baronem de *Baltimore*, & hæredes ſuos, regionis prædictæ, cæterorumque omnium præmiſſorum, veros et abſolutos Dominos & Proprietarios (exceptis
38 præexceptis) ſalva ſemper fide, & ligeantia, ac dominio directo, nobis, hæredibus & ſucceſſoribus noſtris, debitis, pro nobis, hæredibus & ſucceſſoribus noſtris, facimus, creamus & conſtituimus per præſentes; *habend'* tenend' poſſidend' & gaudend' prædictam regionem, inſulas, inſululas, & cætera præmiſſa, præfato modo Baroni de *Baltimore*, & hæredibus & aſſignatis ſuis, ad ſolum & proprium opus et uſum ipſius modo Baronis de *Baltimore*, hæredum & aſſignatorum ſuorum, imperpetuum; *tenend'* de nobis, hæredibus & ſucceſſoribus noſtris, Regibus Angliæ, ut de Caſtro noſtro de *Windſore* in comitatu noſtro *Berks*, in libero & communi ſocagio, per fidelitatem tantum pro omnibus
39 Servitiis, & non in Capite, nec per Servitium militare. As by the ſaid Original Letters Patent, under the Great Seal of *England*, to which Defendant for his greater certainty craves Leave to refer, relation thereunto being had, may more fully and at large appear.

Defendant cannot but obſerve that, notwithſtanding the Words *Hactenus inculta* are made uſe of *in the Preamble* of the ſaid Charter, the Lands thereby granted being then lookt upon and eſteemed to be incultivated, yet, they are not inſerted by way of reſtriction *in the Body*, or granting part thereof; and, therefore, Defendant is adviſed, and inſiſts, the Lands, thereby deſcribed and granted, are not reſtrained to the ſaid Words *Hactenus inculta*, but did, all, well paſs by the ſaid Letters Patent, notwithſtanding the ſaid Words *Hactenus inculta* ſo recited in the Preamble thereof.

40 Admits that his late Majeſty, King *Charles* the Firſt, by his ſaid Letters Patent to the ſaid *Cecilius*, did grant, unto the ſaid *Cecilius* in Fee, all Iſlands and Iſlets within the Limits deſcribed in the ſaid Grant as aforeſaid, and all and ſingular the Iſlands and Iſlets which were, or ſhould be, in the Ocean, within ten Leagues from the Eaſtern Shore of the ſaid Country towards the Eaſt, as in the Bill is ſet forth, and that his ſaid late Majeſty did thereby erect the ſaid Lands, ſo granted, into a Province, by the Name of *Maryland*, with certain Priviledges and Juriſdictions for the better governing thereof.

41 Doth not know, nor can ſet forth, whether the ſaid Letters Patent or Grant, ſo made to the ſaid *Cecilius* as aforeſaid, was, or was not, ſo deſcribed, or whether the Tracts, which were thereby granted, were, or were not, ſo bounded, by the help of the ſaid pretended Captain *Smith*'s ſaid Book and Hiſtory or Map of *Virginia*, and no other, as by
42 the Bill is alledged; nor whether any ſkilful Perſons own or acknowledge or believe the ſame, for the Reaſons in the Bill mentioned, or for any other Reaſons; but this Defendant, having never compared the ſaid Book or Map with the Names and Deſcriptions of the ſeveral Places mentioned in the ſaid Letters Patent, hath no reaſon to believe the Boundaries or Deſcriptions in the ſaid Letters Patent were taken from ſuch Book or Map.

43 Defendant is adviſed and inſiſts the ſaid pretended Hiſtory of *Smith* cannot, in any reſpect, add to, or diminiſh from, the Grant to the ſaid *Cecilius*, or be of any Authority to explain the ſame, if there was any Doubt or Obſcurity as to the Limits of the Lands that were thereby granted, and which he humbly apprehends there is not.

Saith the ſaid Grant fully and clearly, as he doubts not to make appear, extends to, and includes, all and *every part of the ſaid three Lower Counties* of *Newcaſtle*, *Kent* and *Suſſex*.

44 Doth not know, nor can ſet forth, whether the ſaid Captain *Smith*'s pretended Hiſtory and Map of *Virginia*, had been printed and publiſhed ſome few, or any, or what, number of Years, or how long, before the preſenting ſuch Petition of the ſaid *Cecilius*, then Baron of *Baltimore* in 1632 to his Majeſty King *Charles* the Firſt, and the iſſuing
45 ſuch Letters Patent as aforeſaid, or whether the ſaid Captain *Smith*'s ſaid Hiſtory and Map of *Virginia*, was then printed or publiſhed at all, as pretended by the Bill; though, for ought he knows to the contrary, ſuch Book might be then printed and publiſhed, and which he is inclinable to believe it was, from the Date it bears, and the Year in which it purports, upon the Title-page, to have been printed and publiſhed.

46 Doth not know, nor hath even heard, ſave from the Plaintiffs and their Bill, nor hath he any Reaſon to believe, nor doth he believe, that there was then no other Map or Plan of the ſaid Peninſula or Tract, or the Parts adjacent thereunto done by any *Engliſhman* whatſoever extant, nor any Hiſtory or Deſcription of the ſame Peninſula or Tracts and Parts adjacent, publiſhed, printed, known or uſed, than the ſaid pretended Book or Hiſtory and Map of Captain *Smith*'s, as is alledged in and by the Bill; the ſaid Peninſula,
47 and the ſeveral Parts adjacent thereto, as he hath been informed and believes, having been diſcovered, though not inhabited, or ſettled upon, by *Engliſhmen*, as well as others of Foreign Nations, many Years before the Grant thereof to the ſaid *Cecilius*, the Defendant's Anceſtor, by his ſaid Majeſty King *Charles* the Firſt as aforeſaid, or the time of the pretended printing and publiſhing of the ſaid Captain *Smith*'s ſaid Hiſtory; and the Defendant hath now, in his Cuſtody or Power, a Map thereof, much more ancient, as he believes.

48 Denies that he either knows, or believes, that, according to the expreſs Bounds of the ſaid recited Letters Patent, the Head, or moſt Northern Parts, of the Lands, thereby granted to the ſaid *Cecilius*, was to extend *only* ſo far as until it ſubjoined to ſuch part of the Eſtuary of *Delaware*, as lay under the 40th Degree of the Northern Latitude, as in and by the Bill is ſuggeſted, or that every, or any, part of the Lands which lay under the ſaid 40th Degree, or of ſuch Lands as lay from the 39th Degree compleat to the 40th
49 Degree compleat, were excluded by the ſaid Grant.

On

On the contrary, the Defendant ſaith he is adviſed, and conceives, that, according to the expreſs Bounds of the ſaid recited Letters Patent, the Lands, thereby granted, were to extend, through the 40th Degree compleat, and to *the end thereof*, and that no part of the Lands under the ſaid 40th Degree were excluded out of the ſaid Grant, or meant or intended ſo to be, all the Lands under the ſaid 40th Degree being, manifeſtly, and in Terms, comprehended *within* the ſaid Grant.

50 Inſiſts that no ſuch Conſtruction, or Reſtriction, can, or ought to, be put upon the ſaid Grant, as the Plaintiffs mention and inſiſt upon by their Bill, the ſame, as he is adviſed and conceives, being directly contrary not only to the expreſs Terms, but to the true Intent and Meaning, of the ſaid Letters Patent.

51 Believes that, from the 39th Degree compleat, to the 40th Degree compleat, is 60 Geometrical Miles or Minutes, or 69 *Engliſh* Statute Miles, as the Plaintiffs compute and ſtate the ſame by their Bill, and that there is ſuch Quantity or Space of Land lying under the 40th Degree as the Plaintiffs mention, but inſiſts that the whole thereof, and all Lands lying under the ſaid 40th Degree, of what Space or Quantity ſoever, were granted to the ſaid *Cecilius*, by the ſaid Letters Patent, and not ſuch Lands, or ſo far only, as extended or adjoined *to* the ſaid 40th Degree, as the Plaintiffs unjuſtly pretend by their Bill.

52 Denies that he either knows, or believes, that it appears by the Land Marks, Buttals and other Deſcriptions in the ſaid recited Letters Patent, or by any of them, that no part of the Lands which lay under the 40th Degree was, or was intended to be, granted to the ſaid *Cecilius*; on the contrary, apprehends and is adviſed that it manifeſtly appears,

53 from all and every the Land Marks, Buttals and other Deſcriptions, contained in the ſaid recited Letters Patent, that all the Lands which lay under the ſaid 40th Degree were, and were intended to be, thereby granted to the ſaid *Cecilius*.

Denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs and their Agents, that, at the time of making the before recited Letters Patent to the ſaid *Cecilius*, ſuch part of the ſaid Peninſula as is for that purpoſe mentioned and deſcribed by the Plaintiffs ſaid Bill, or any part thereof, or any part of the Continent at the Head or

54 North part of the ſaid Peninſula, and which is now called the three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, was ſeated and inhabited by the *Swedes* and *Dutch*, or either of them, in manner as in the Plaintiffs Bill is for that purpoſe ſet forth and alledged, or in ſuch a manner as that his Majeſty was not at the time of the ſaid recited Letters

55 Patent to the ſaid *Cecilius* ſeized or poſſeſſed thereof, ſo as to have a good Right and Power to grant the ſame, as by the Plaintiffs ſaid Bill is moſt untruly ſuggeſted.

Defendant is adviſed and humbly inſiſts that his ſaid late Majeſty had good Right and Power to grant the ſame, and, that he did, by his ſaid Letters Patent, grant, and did intend to grant, the ſame, and that the ſaid *Cecilius* did, by his ſaid Petition, and according to the true Scope, Acceptation and Meaning thereof, petition his Majeſty for the ſame.

56 Defendant is adviſed and inſiſts that, from the Words of the ſaid *Cecilius*'s Petition, whereby he prays Leave to tranſport an *Engliſh* Colony into a certain Country therein after deſcribed in the Parts of *America* not then cultivated and planted, though in ſome Parts thereof inhabited by certain barbarous People, having no Knowledge of Almighty God, and from the particular and exact Bounds, and Limits of the Country therein after ſet out and deſcribed in the ſaid *Cecilius*'s Petition, and the ſaid Letters Patent

57 granted thereupon, which evidently and manifeſtly takes in and includes the ſaid three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, it is undoubtedly plain that the ſaid three Lower Counties were not then known, looked upon, or eſteemed, to have been inhabited or planted, or ſettled upon by any Chriſtians whatever, either *Engliſh* or Foreigners, or by any others than the rude and barbarous *Indians*, and that the ſaid *Cecilius*, by his ſaid Petition prayed for a Grant of the ſaid three Lower Counties, and that his Majeſty certainly intended to grant the ſame.

58 Defendant is adviſed and conceives that his Majeſty *had full Power ſo to do*, and was well ſeized and poſſeſſed of the ſaid three Lower Counties, ſo as to grant the ſame, and that, if there was any itinerant *Dutch* or *Swediſh* Traders upon any part of the ſaid three Lower Counties, at the time of his Majeſty's ſo granting the ſame to the ſaid *Cecilius*, yet, that their being there, could in no manner deprive or take from his Majeſty the Power of granting the ſame, or leſſen or diminiſh the ſaid Grant, and that a few of

59 ſuch Foreigners being there, in Caſe there were any ſuch, would in no Caſe make the ſame be conſidered as inhabited and cultivated, in ſuch a manner as to impeach or invalidate the ſaid Grant; for, that his Majeſty could not be ſuppoſed to have any View to ſecure Poſſeſſions to Foreigners, appears from the expreſs Words of the ſaid Grant, it be-

60 ing mentioned and recited to be made for the Enlargement of the *Engliſh* Empire and Dominion; and, as the Limits deſcribed in the ſaid Grant clearly take in the ſaid three Lower Counties, the Defendant is adviſed there can be no pretence of any Deceit on the Crown in obtaining the ſaid Letters Patent, though there ſhould happen to be ſome few *Swediſh* and *Dutch* ſettled upon ſome ſmall inconſiderable Parts of the ſaid Counties.

Hath heard, and believes it to be true, that, after the ſaid Letters Patent and Grant were made to the ſaid *Cecilius* as aforeſaid, he the ſaid *Cecilius*, or ſome of his Dependants,

61 entered upon and took poſſeſſion of the ſame Premiſſes ſo granted, and have ever ſince continued poſſeſſed thereof, ſave as hereafter is mentioned as to ſuch Parts thereof as the Plaintiffs and their Anceſtors have unjuſtly uſurped the Poſſeſſion of, and to which they now pretend a Right, but, as Defendant is adviſed and inſiſts, without the leaſt Manner of Right or Title thereto.

62 Denies that he either *knows* or *believes*, or hath *ever heard*, ſave from the Plaintiffs or their Dependants, that the ſaid *Swedes* and *Dutch* ſucceſſively poſſeſſed and enjoyed *for many Years* after the Date of the ſaid Letters Patent to the ſaid *Cecilius* their ancient Settlement on *Delaware*, as deſcribed and mentioned in the Plaintiffs ſaid Bill of Complaint, the ſaid *Dutch* and *Swedes* having no ſuch Settlement there (as this Defendant ever heard of, or believes) as is pretended and ſuggeſted in and by the Bill, there being but a few of

63 them there (if any) and thoſe but itinerant Traders, who had nothing that could deſerve the Name of, or be conſidered as, a Settlement thereon; or, if they were ſettled there, had no Right to the ſame, or at leaſt to ſuch Parts only as they were actually ſettled upon, and as were inhabited by them as aforeſaid, which were very ſmall and inconſiderable.

Hath heard, and believes it to be true, that the ſaid *Cecilius* and his Heirs or Deſcendants, the Defendant's Anceſtors, did ſet down, and take poſſeſſion of, Lands, on the Weſtern

64 Side of the ſaid Peninſula *above*, and more Northwards than, the 39th Degree of Northern Latitude compleat, and even almoſt to the 40th Degree compleat, of the ſaid Northern Latitude, but is adviſed and apprehends the ſame was not ſo done by them in Deceit and Diſinheriſon of his Majeſty, but all ſuch Lands as they ſo ſat down upon, or took poſſeſſion

65 of, were expreſly contained within the Limits and Bounds of the ſaid recited Letters Patent, and for which Seating-down and Poſſeſſion Defendant is adviſed and inſiſts that the ſaid *Cecilius*, or his Heirs or Deſcendants, had a clear and indiſputable Right and Title under the ſaid Letters Patent and Charter of *Maryland* as before is mentioned

Denies that he either knows, or ever heard or believes, that the Plaintiffs, or either of them, or any under whom they claim, ever could, or did, make or transfer any le-

66 gal Title or Right of the ſaid three Lower Counties, or either of them, or of any Part thereof, to any Deſcendant of the ſaid *Cecilius*, as is untruly alledged in and by the Bill, or that any Deſcendant of the ſaid *Cecilius* ever did or could derive or have any Right or Title thereto from the Plaintiffs, or thoſe under whom they derive, the Plaintiffs or either of them, or thoſe under whom they derive, never having had any Manner of Right or Title to the ſaid three Lower Counties, or either of them, or any Part thereof, to the Knowledge or Belief of this Defendant.

67 Doth not *know*, nor *ever heard*, ſave from the Bill, *nor doth he believe*, that the *Dutch* ever held the ſaid Lands called the three Lower Counties (which this Defendant hath heard and believes lie on the Weſtern Side of the River of *Delaware*) as *appertaining and belonging to a larger or greater Settlement*, upon a large Tract of Land Part of what is generally

68 called *New England*, and particularly on thoſe Parts now called *Weſt New Jerſey* and *Eaſt New Jerſey* and *New York* on the Eaſtern Side of *Delaware*; or, that the ſaid three Counties always went along with the ſaid *larger* Tract or Settlement, as by the Bill is ſuggeſted, or *any ways* belonged or appertained thereto; but a very inconſiderable Part of the ſaid three Counties (if any) being inhabited or ſettled upon, at the time the *Dutch* were in poſſeſſion of the ſaid *Jerſeys* and *New York*, and *the ſaid three Counties were not, then,*

69 *looked upon or eſteemed, in any manner, to appertain or belong to the ſaid* Jerſeys *or* New York.

Neither doth Defendant know, or believe, that it was, or is, *abſolutely* neceſſary for thoſe who enjoyed the ſaid *greater* Settlement to have, likewiſe, the Lands now called the three Lower Counties, for the Reaſons in the Bill mentioned, or any other Reaſons; nor do the Inhabitants of the ſaid *Jerſeys* or *New York* make the leaſt Pretence or Claim to

70 the ſaid three Counties, or any Part thereof, to the Knowledge or Belief of this Defendant; tho' this Defendant believes it might be advantageous, for thoſe who enjoyed the ſaid greater Settlements, to have, likewiſe, the ſaid three Lower Counties, if they had any Right to the ſame.

Hath heard, and believes it to be true, that, in or about the Year 1664, his late Majeſty King *Charles* the Second took from the ſaid *Dutch* the ſaid *great* Settlement and Poſſeſ-

71 ſion of the ſaid *Dutch* at *New York* and *New Jerſeys*, on the Eaſtern Side of the ſaid River of *Delaware*, and all Lands appertaining to the ſaid *great* Settlement.

But denies that he either *knows*, or *believes*, or *ever heard*, that the ſaid three Lower Counties were then looked upon, or eſteemed, to be *Part of*, or appertaining to, the ſaid Provinces of *New York* and *New Jerſeys*, or to be then the Right of, or *in the Poſſeſſion* of the *Dutch*, or that his ſaid late Majeſty King *Charles* the Second, by virtue of ſuch his

72 Conqueſt from the *Dutch* became, for the firſt time, ſeized and poſſeſſed, in Right of his Crown, of the ſaid three Lower Counties; on the contrary, the ſaid three Lower Counties were, as Defendant moſt aſſuredly believes, long before that time, the Right of, and belonged to, the Crown of *England*; the ſame having been, before that time, granted by his ſaid then Majeſty's Royal Father King *Charles* the Firſt to the ſaid *Cecilius* Defendant's Great Grandfather, by the ſaid Letters Patent, as aforeſaid.

73 Hath heard, and believes it to be true, that his ſaid late Majeſty King *Charles* the Second did, by his Letters Patent under the Great Seal of *England*, bearing Date at *Weſtminſter* on or about the 12th Day of *March*, in the 16th Year of his Reign, and in the Year of our Lord 1664, give and grant unto his Brother *James* then Duke of *York*, his Heirs and

74 Aſſigns, very conſiderable Tracts of Land in *New England*, with divers Powers of Government over the ſaid *County* thereby granted, as in the Bill is mentioned; but Defendant, as to the ſeveral Tracts of Land and Premiſſes thereby granted to the ſaid *James*, then Duke of *York*, craves leave to refer to the ſaid Letters Patent under the Great Seal of *England* when produced, or the Exemplification or Enrollment thereof, alledged by the Bill to remain of Record in this Honourable Court.

75 But denies, that he either knows, or believes, that the ſaid Duke of *York*, by virtue of or under the ſaid laſt recited Grant and Letters Patent, by his Governors, Deputy-Governors, and other Officers, or otherwiſe, became and was *actually* and *really*, or lawfully aud rightfully, ſeized and poſſeſſed of or intitled to *the ſaid three Lower Counties of* Newcaſtle, Kent, *and* Suſſex, as belonging or appertaining to the ſaid Provinces of the *Jerſeys* and *New York*, or either of them, or as Part of, or appertaining to, any of the Premiſſes

76 ſo granted to him by any of the ſaid Letters Patent of the 12th of *March* 1664, as is ſet out and pretended in and by the Bill.

On the contrary, the Defendant hath heard, and believes, that the ſaid *Cecilius* Lord *Baltimore*, and others, the Defendant's Anceſtors, both before and after the ſaid Year 1664,

77 and from time to time, from the Grant of the ſaid Charter in 1632, until as herein after is mentioned, did and exerciſed all Acts of Ownerſhip, Proprietorſhip, and Government, *within the ſaid three Lower Counties*, as abſolute Lords and Proprietors thereof, and that they had a good Right and Title ſo to do.

Doth not know, or believe, or ever heard, ſave from the Plaintiffs and their Agents, that the ſaid three Lower Counties were *ever* in the Poſſeſſion of the *Dutch*, or were Depen-

78 dents upon, or belonging, or appertaining to, the ſaid Great Settlement of the two *Jerſeys* and *New York*, as by the Bill is ſuggeſted.

On the contrary apprehends and believes, the ſame were *always dependent upon*, and belonging to the Province of *Maryland*, and fully comprehended and included within the Limits and Bounds deſcribed in the ſaid Charter of *Maryland* to the ſaid *Cecilius* the Defendant's Great Grandfather as aforeſaid.

And the Defendant inſiſts, that the ſaid Duke of *York* had no Right to grant the ſame away to any other Perſon, as is alledged and pretended by the Bill.

79 Hath heard, and believes it to be true, that, after his ſaid late Majeſty King *Charles* the Second had made ſuch Grant in 1664, as aforeſaid, to the ſaid *James* Duke of *York*, a certain Treaty was concluded at *Breda*, between his ſaid late Majeſty King *Charles* the Second and the States-General, about the time in the Bill for that purpoſe ſet forth and

80 mentioned; and that the States-General, by ſuch Treaty, ceded and yielded, to his ſaid late Majeſty, all Places whereof his ſaid late Majeſty had been in Poſſeſſion on the 10th of *May* 1667, as in the ſaid Bill is alledged: To which Treaty the Defendant, for his greater Certainty, craves leave to refer.

Hath alſo heard, and believes, that War was, afterwards, declared between *England* and *Holland*, in or about the Year 1672, as in the Bill is ſet forth.

81 And that afterwards, and for ought the Defendant knows to the contrary, in or about the Month of *July* 1673, the *Dutch* entered into and upon their former ſaid *great* Settlement, upon the Lands now called Weſt and Eaſt *New Jerſey*, and *New York*; but denies, that he either *knows*, or *believes*, or *ever heard*, ſave from the Plaintiffs and their Agents,

82 that the *Dutch* likewiſe, upon or after ſuch Declaration of War in 1673, entered into and upon the Lands now called the *three Lower Counties* of *Newcaſtle*, *Kent*, and *Suſſex*, as by the Bill is alledged.

Hath heard, and believes that, to the contrary, in or about the Month of *February* 1673, as by the Bill is alledged, a Treaty of Peace was concluded, between *England* and *Holland*, and that, by ſuch Treaty, all Countries which had been taken by each from the other, ſince the ſaid laſt-mentioned War broke out in 1672, were agreed to be reſtored,

83 by each of the contracting Parties, to the other, from whom the ſame had been taken: To which Treaty, for greater Certainty, the Defendant craves leave to refer.

Heard and believes, that, in a very ſhort time after the concluding the ſaid laſt-mentioned Treaty of *February* 1673, his ſaid late Majeſty King *Charles* the Second, and the ſaid

84 *James* Duke of *York*, ſent over Colonel *Edmund Andros*, afterwards Sir *Edmund Andros* Knight, or ſome other Perſon or Perſons, with Authority to receive from the *Dutch* the ſaid Settlements of the two *Jerſeys* and *New York*, and the Government thereof, to continue in the Command thereof *under the ſaid* James *Duke of* York.

But denies, that he either knows, or believes, or ever heard, ſave from the Bill, that the ſaid Colonel *Andros* was ſent over to receive, or did receive, from the *Dutch*, Poſſeſſion

85 of the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or any Part thereof, at the time he ſo received from them their ſaid Settlement of the *Jerſeys* and *New York*, as by the Bill is ſuggeſted; the ſame not having, to the Knowledge or Belief of the Defendant, been in the Poſſeſſion of the *Dutch* during the War, or delivered by the *Dutch* to the ſaid Colonel *Andros*, or been under his Command or Government under his ſaid late Majeſty King *Charles* the Second and the ſaid *James* Duke of *York*, or either of them, by

86 virtue of any Commiſſion or Commiſſions from them, or either of them, or otherwiſe howſoever.

Hath heard and believes that, immediately, or ſoon, after the giving ſuch Commiſſions and Authority to the ſaid Colonel *Andros*, the Colonel went over to the *New Eaſt* and *Weſt Jerſeys* and *New York*, and took Poſſeſſion *thereof*, for, and in behalf of the ſaid *James* Duke of *York*, and continued in Poſſeſſion thereof, and under the Authority and in

87 the Behalf of the ſaid *James* Duke of *York* did, for many Years together, exerciſe all Sorts of Acts of Propriety and Government whatſoever *throughout the ſaid Provinces of New* Eaſt *and* Weſt Jerſeys *and* New York.

But denies, that he either *knows*, *believes*, or *ever heard*, ſave from the Bill and from the Plaintiffs and their Agents, that the ſaid Colonel *Andros*, under the Authority and

88 in the Behalf of the ſaid *James* Duke of *York*, or of his ſaid late Majeſty King *Charles* the Second, by virtue of ſuch his Commiſſions, or otherwiſe, exerciſed *all, or any, kinds of Acts of Ownerſhip or Government, within the ſaid three Lower Counties* of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, *or any Part thereof*, or that he was any wife in the

Poſſeſſion

Poſſeſſion of the ſame, or had any Right thereto by virtue of his ſaid Commiſſion under the Crown, or the Duke of *York*, or otherwiſe, however, the Right thereto, as the Defendant is adviſed and inſiſts, being in the Defendant's ſaid Anceſtors, under the ſaid Letters Patent, as aforeſaid.

89 Hath heard, and believes it may be true, that his ſaid late Majeſty King *Charles* the Second, in order to make unto the ſaid Duke of *York* a clear Title to the ſaid Countries which had been before granted to him in 1664, as aforeſaid, by his Letters Patent, under the Great Seal of *England*, bearing Date at *Weſtminſter* on or about the 29th Day of
90 *June*, which was in the Year of our Lord 1674, did give and grant, unto the ſaid *James* Duke of *York*, his Heirs and Aſſigns the ſame Territories which were granted by the ſaid former Letters Patent; and did thereby give and grant unto the ſaid *James* Duke of *York*, in Fee, divers Powers of Government over the ſaid Country and Territory thereby granted,
91 as in the Bill is for that purpoſe ſet forth; but for his greater Certainty therein craves leave to refer to the ſaid Letters Patent, when produced by the Plaintiffs under the Great Seal of *England*, or to the Exemplification, or Enrollment thereof, alledged by the Plaintiffs to remain as of Record in this Court.

92 Denies that he either knows, or believes, that the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or any part thereof, were included in the ſaid laſt mentioned Letters Patent to the Duke of *York* of 1674, or that any Intereſt therein, or Right thereto, paſſed to the ſaid Duke of *York*, by virtue of the ſaid recited Letters Patent, the ſame being, as the Defendant apprehends, and believes, no new Grant of any other Lands than what were before included in the ſaid former Letters Patent to the Duke of *York* of 1664, but only a Confirmation of the very ſame Lands included in the ſaid former Grant; which ſaid former Grant or Letters Patent to the Duke of *York* no ways extended, as the Defen-
93 dant is adviſed, and inſiſts, to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, or any Part thereof.

Hath heard and believes, that the Plaintiffs late Father, about the time in the Bill for that purpoſe mentioned, petitioned his late Majeſty King *Charles* the Second to grant him Letters Patent for a Tract of Land in *America*, as in the Plaintiffs Bill is for that purpoſe ſet forth; but having never ſeen the ſaid original Petition, and knowing nothing thereof
94 of his own Knowledge, muſt therefore crave Leave for his greater Certainty, as to the Contents of the Plaintiffs Father's ſaid Petition, to refer to the ſaid Petition itſelf, when produced.

Doth not know, nor ever heard, ſave from the Plaintiffs Bill and from them and their Agents, and therefore cannot ſet forth, either as to his Knowledge or Belief, whether the
95 Plaintiffs late Father was, or was not, about the time in the Bill for that purpoſe mentioned, or at any other time, called in by the Lords of the Committee of his ſaid late Majeſty's moſt Honourable Privy Council for the Affairs of Trade and Plantations, to whoſe Conſideration the ſaid Petition (as the Plaintiffs alledge by their ſaid Bill) had been referred, as in the Plaintiffs Bill is ſet forth; nor whether the Plaintiffs ſaid late Father was, or was not, then aſked ſuch Queſtions, or whether he did, or did not, make ſuch Anſwer thereto,
96 as in the Plaintiffs Bill is for that purpoſe particularly ſet forth and alledged; nor what was done or tranſacted thereon, nor what Proceedings were had relating thereto, the Defendant knowing thereof himſelf, but muſt refer the Plaintiffs to the Minutes and Orders of the ſaid Privy Council, and Lords of Trade, for the ſame, the Defendant being an entire Stranger thereto, otherwiſe than may appear by ſuch Orders and Minutes.

97 Hath heard and believes, that, purſuant to the Advice and Reports of the Lords of his ſaid late Majeſty's moſt Honourable Privy Council, and by Letters Patent under the Great Seal of *England*, of ſuch Date as in the Bill is for that purpoſe mentioned, his ſaid late Majeſty did give and grant, unto *William Penn* Eſq; the Plaintiffs ſaid late Father, his Heirs and Aſſigns, a Tract of Land in *America*, with divers Powers of Government; and that, by the ſame Letters Patent, the ſaid Country was erected into a Pro-
98 vince, and called *Penſilvania*; but the Defendant, for his greater Certainty, as to the proper Bounds, and Limits, and Dimenſions of the ſaid Tract of Land, ſo granted by the ſaid Letters Patent to the Plaintiffs ſaid Father, and called *Penſilvania*, begs leave to refer to the ſaid laſt-mentioned Letters Patent under the Great Seal of *England*, when produced by the Plaintiffs.

But is adviſed and inſiſts that the ſaid laſt-mentioned Letters Patent no ways granted, or gave, to the Plaintiff's late Father the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and
Here he ſwears the Lower Counties to be on the other ſide of Delaware ! 99 *Suſſex*, or either of them, or any Part of them; *the ſaid Province of* Penſilvania, *being entirely in the Weſt Side of* Delaware *River, and the ſaid three Counties being on the Eaſt Side of the ſaid River, and no ways included in the ſaid laſt mentioned Letters Patent.*

Denies that he either knows, or believes, or ever heard, that the Lords of his ſaid late Majeſty's Privy Council thought the Conſent of the ſaid Duke of *York* neceſſary before
100 the ſaid Grant of *Penſilvania* paſſed the Great Seal, for the Reaſons in the Bill for that purpoſe mentioned; or particularly in reſpect of the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or that the ſaid Duke of *York*'s Aſſent to the ſaid Grant was, accordingly, for that reaſon, had and given to the Right Honourable the Lords of the Committee of Plantations, or before a Committee of the Privy Council of his ſaid late Majeſty King *Charles* the Second, as by the ſaid Bill is ſuggeſted.

101 But hath heard, and *believes* it to be true, that the ſaid Duke of *York*'s Aſſent was had to the ſaid Grant, and that the ſaid Lords of the Council *thought ſuch Aſſent neceſſary* to the ſaid Grant of *Penſilvania*, before they paſſed the ſame, *in regard* that, as this Defendant believes, their Lordſhips might be apprized that the Provinces of *New Eaſt* and
Here he ſwears Penſilvania *contiguous to* New Jerſey *and* NewYork, *tho' in fact the River* Delaware *is between them !* 102 *Weſt Jerſey* and *New York*, which were then in the Poſſeſſion of the ſaid Duke of *York*, were *contiguous* to the ſaid Tract of Land ſo paſſed by the ſaid Grant, and intended to be erected into the ſaid Province of *Penſilvania*, and *therefore*, their Lordſhips were in ſome doubt whether it might not infringe upon the ſaid other Grant of the other Pro-
103 vinces of the Duke of *York*, called *New Eaſt* and *Weſt Jerſey* and *New York*, and *for that reaſon*, and *that reaſon only*, as the Defendant hath heard and believes, and not particularly, or at all, with reſpect to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, their Lordſhips thought it neceſſary to have the ſaid Duke of *York*'s Aſſent to the ſaid Grant, before it paſſed the Great Seal.

Hath heard, and believes it may be true, that the ſaid *William Penn* the Plaintiffs late Father, after obtaining the ſaid Grant of *Penſilvania*, and to take away all manner of Objections thereto from the ſaid Duke of *York*, or any Claiming under the Duke, did make Intereſt and prevail upon the ſaid Duke of *York* to confirm the ſame; and that the ſaid
104 Duke of *York*, afterwards, by Indenture dated on or about the 21ſt of *Auguſt* 1682, and made between ſuch Parties as in the Bill are for that purpoſe mentioned, did remiſe, releaſe and for ever quit claim, unto the ſaid *William Penn*, his Heirs and Aſſigns, all his the ſaid Duke of *York*'s Right, Title and Intereſt, whatſoever, to the ſaid Tract of Land and Pre-
105 miſſes before granted by the ſaid Letters Patent of the 4th of *March* 1080, To hold to the ſaid *William Penn*, his Heirs and Aſſigns, for ever; but the Defendant craves leave, for his greater Certainty, to refer to ſuch Indenture when produced.

Doth not know, but hath heard, that, ſoon after the Grant was made by the ſaid King *Charles* the Second of the ſaid Province of *Penſilvania*, and confirmed by the ſaid Duke
106 of *York* unto the Plaintiffs late Father as aforeſaid, the ſaid *James* Duke of *York* did make and execute two ſeveral Indentures of Feoffment, of the 24th of *Auguſt* 1682, to the Plaintiffs Father *William Penn*, as in the Bill is for that purpoſe particularly ſet forth and mentioned; and that there might be ſuch Covenant therein, on behalf of the ſaid Duke of *York*, and ſuch Power for Livery and Seiſin, as in the Bill are mentioned; but the Defendant, knowing nothing thereof of his own Knowledge, or otherwiſe than by
107 Information, for his greater Certainty as to the Contents of the two laſt mentioned Indentures of Feoffment, and the Premiſſes thereby intended to be enfeoffed to the ſaid *William Penn*, begs leave to refer to the ſaid Indentures of Feoffment when produced.

But denies that he either knows, or believes, that any Right to, or Intereſt in, the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or either of them, or any Part of
108 them, paſſed, or could paſs, to the ſaid *William Penn* the Plaintiffs late Father, by virtue of, or under, the ſaid pretended Indentures of Feoffment, or either of them from the ſaid Duke of *York*; the ſaid Duke of *York* having no manner of Right or Title thereto himſelf, under either of his Grants from the Crown before-mentioned.

Hath heard, and believes it to be true, that the ſaid Duke of *York* was ſo ſenſible he had no manner of Right or Title to the ſaid three Lower Counties, or either of them;
109 and that his ſaid Grants and pretended Feoffments to the Plaintiff's late Father in 1682 (if any ſuch Feoffments there really and in fact were) were of no Validity or Force, with reſpect to the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, that the ſaid Duke of *York*, ſoon afterwards, in the Year 1683, obtained *a Warrant* from his late Majeſty King *Charles* the Second for paſſing a Patent, whereby the ſaid three Lower Counties were intended to have been granted to the ſaid Duke of *York*; and that a *Copy of* a Bill was
110 afterwards prepared by his Majeſty's then Attorney-General for that purpoſe; but the ſame, as the Defendant hath heard and believes, was *never paſſed into a Grant*; for that the then Lord *Baltimore*, having notice thereof, preſented a Petition to his Majeſty, in oppoſition to the paſſing the ſaid Bill under the Great Seal, and praying the ſame might not paſs
111 till his Majeſty ſhould be ſatisfied of the ſaid Letters Patent formerly granted to *Cecilius* Lord *Baltimore*, as aforeſaid, and wherein the ſaid three Counties of *Newcaſtle*, *Kent*, and *Suſſex*, were comprized; which as this Defendant hath heard and believes *prevented the paſſing the ſaid* Bill into a Grant of the ſaid three Lower Counties to the ſaid Duke of *York*.

And this Application of the ſaid Duke to the Crown for a Grant of the ſaid three Counties in 1683, is the ſtrongeſt Evidence, as the Defendant is adviſed, and inſiſts, that it was
112 then apprehended the Duke had no manner of Right or Title thereto, and the not paſſing the ſaid Bill into a Grant, upon the Lord *Baltimore*'s Petition againſt the ſame, ſhews the Senſe of the Crown to be ſo at that time.

Knows nothing of the Plaintiffs late Father *William Penn* having taken Poſſeſſion in Form, of the Premiſſes contained in the ſaid reſpective pretended Indentures of Feoffment,
113 or of any Tenants of the ſaid Premiſſes, attorning to him, at the time, or in the manner, as by the Bill is ſuggeſted, or at any other time, or in any other manner, whatſoever; but, if the Fact really was ſo, and that the Plaintiffs late Father did really take Poſſeſſion of the ſaid Premiſſes in the manner as by the Bill is pretended, which the Defendant neither *knows* or *believes*, yet, the Defendant is adviſed and inſiſts his ſo doing was a Wrong and Injury done to the Defendant's ſaid late Anceſtor, the then Lord *Baltimore*,
114 and an Infringement upon his Right and the Lands granted to him by the ſaid Charter of *Maryland*, and that the Plaintiffs late Father had no manner of Right ſo to do; and that the Plaintiffs ought not, now, to be permitted in a Court of Equity, to make uſe of the Injuſtice and Injury their late Father committed againſt the Defendant's ſaid Anceſtor, to ſupport their Pretenſions to what they have no manner of Right to.

115 Knows nothing of the pretended Proclamation by the Plaintiffs Bill, ſet forth to have been made by the Governor and Council of *New York*, in favour of the Plaintiffs late Father, and in ſupport of the ſaid two Indentures of Feoffment from the Duke of *York* in 1682, and muſt, therefore, leave the Plaintiffs to make ſuch proof thereof as they ſhall be able, or adviſed.

But is adviſed, and inſiſts, that ſuch Proclamation (if any ſuch really was made) could no ways impeach the ſaid Charter of *Maryland*, or the ſaid Letters Patent to the ſaid
116 *Cecilius* in 1632, or take away any Right the Defendant or his ſaid Anceſtors had to any Lands under the ſame.

Believes the ſaid three Counties of *Newcaſtle*, *Kent*, and *Suſſex*, may be comprized and included within the Bounds and Deſcriptions of the ſaid Indentures of Feoffment of 1682,
117 but the Defendant is adviſed, and humbly inſiſts, the Plaintiffs can have no right to the ſaid three Counties, or any Part of them, under the ſaid Indentures of Feoffment, or otherwiſe, for the Reaſons herein before particularly mentioned; and particularly for that the ſaid Duke of *York*, at the time of his making the ſaid Feoffment, if any ſuch Feoffments were made, had no manner of Right to the ſaid Counties, or either of them, or any Part thereof.

Hath heard, and believes it may be true, that the Plaintiffs late Father might enter into the *peaceable Poſſeſſion* of the ſaid Province of *Penſilvania* about the time in the Bill
118 for that purpoſe mentioned; but denies that he either *knows*, or *believes*, or *ever heard* that the ſaid *William Penn*, at or about the time in the Bill for that purpoſe mentioned, or at any other time, whatſoever, *entered into the peaceable Poſſeſſion of the ſaid three lower Counties*, as Proprietor thereof, as in the Bill is untruely ſuggeſted, or that he had any
119 right ſo to do, or that the ſaid *William Penn*, or thoſe claiming under him, now are, or ever were Proprietors thereof, *or ever in the Poſſeſſion thereof as ſuch*, or had any Right or Title thereto, whatſoever.

But hath heard and believes that, there being a Diſpute, between the Crown and the Defendant's Anceſtor, touching the Right to the ſaid three Lower Counties, and the Defendant's Anceſtors having been under ſome ſuppoſed legal Diſabilities, whereby they were reſtrained from exerciſing any Acts of Government, and theſe three Counties not being
120 of Extent and Riches enough to maintain a Governor of themſelves, ſeparately and independent of any other Province, the Governors of *Penſilvania*, for the time being, for many Years paſt, have been permitted to have the Government, and to exerciſe a Juriſdiction, over the ſaid three Counties; but notwithſtanding ſuch Permiſſion the ſaid Counties were never, to the Knowledge or Belief of the Defendant, look'd upon as Part of *Penſilvania*, or that the Plaintiffs, or any of their Anceſtors, had any Right or Title thereto;
121 and, as an Evidence of this, the Defendant hath been informed and believes, and doubts not but it will appear, that the Plaintiffs and their Anceſtors have, always, from time to time, upon his Majeſty's approving of a Governor for their ſaid Province of *Penſilvania* and the ſaid three Lower Counties, ſigned a Declaration in Writing, declaring that his Majeſty's Royal Approbation and Allowance of ſuch Governor of *Penſilvania*, to be at the ſame time Governor of the ſaid three Lower Counties upon *Delaware* River,
122 ſhould not, in any manner, be conſtrued to eſtabliſh any Right in them to the ſaid three Lower Counties, or to diminiſh or ſet aſide the Right claimed by the Crown thereto.

So that the Defendant apprehends, and is adviſed, that it appears from this Declaration of their late Father, and themſelves, from time to time, that he and they was and were ſenſible, he and they had no Right to the ſaid three Lower Counties, but that he and they, and the Deputy-Governor of the ſaid Province of *Penſilvania* under him and
123 them, held the Government of the ſaid three Lower Counties in Truſt only for the Crown, or ſuch other as ſhould make out a Title to the ſame under the Crown.

Defendant doth not know, or believe, or ever heard, that the Plaintiffs, or their Father, ever received Quit-Rents from the Inhabitants of the ſaid three Counties as Proprietors thereof, but, however that might be, the Defendant is adviſed and inſiſts that any illegal, or uſurped, Poſſeſſion of their's of the ſaid three Lower Counties, or any
124 Part of them, can in no wiſe ſupport their pretended Right or Title thereto, as the ſame are clearly comprized within the Limits and Bounds deſcribed in the ſaid Charter of *Maryland* granted to the Defendants ſaid Anceſtor *Cecilius*, as aforeſaid.

But the Defendant apprehends the *original Right*, to the ſaid three Counties, *cannot be drawn into Queſtion* in this Suit, and therefore the Defendant apprehends and is adviſed all theſe Parts of the Bill, relating to the Grants from the Crown and the Duke of *York*, might have been very well *omitted* out of the Plaintiffs Bill.

125 Denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs Bill, that the Plaintiffs late Father *William Penn*, at his own Charge, peopled and ſettled the ſaid three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, or that the Plaintiffs, or their ſaid late Father, have been at the Expence of 60,000 *l.* Sterling in peopling, ſettling and
126 improving the ſame, as is pretended by the Bill, or that they have been at *any* Expence *at all* on that Account, to the Knowledge or Belief of the Defendant; for, on the contrary, the Defendant hath heard, and believes it to be true, that the Plaintiffs late Father was not at the Charge or Expence of peopling or ſettling the Province of *Penſilvania*, but that the ſettling and improving, even of that Province, was begun and carried on at the Expence, Hazard and Induſtry of divers People who purchaſed, at firſt, a very conſider-
127 able Tract of Land from the Plaintiffs late Father, to the amount of 600,000 Acres, and were at the Trouble, Hazard and Expence of ſettling, peopling and cultivating the ſame, and paid the ſaid *William Penn* a conſiderable Conſideration for ſuch Purchaſe; by which the Plaintiffs ſaid Father was an immediate Gainer by the firſt ſettling and peopling the ſaid Province of *Penſilvania*, and was not at the Hazard or Expence thereof himſelf: And, as this was the Method the Plaintiffs late Father took, in ſettling and peopling the *ſaid Province*

128 *Province* of *Penſilvania, to which he had, as the Defendant believes, a Right*, is very improbable to imagine he ſhould be at any Expence in ſettling, peopling, or improving the ſaid Lower Counties of *Newcaſtle, Kent* and *Suſſex*, or either of them, or any part of them, to which he muſt, as the Defendant apprehends, know he had no manner of Right or Title.

Saith that if the ſaid three lower Counties of *Newcaſtle, Kent* and *Suſſex* were part of, or appertaining to, the ſaid Province of *Penſilvania*, which however he inſiſts they are
129 not, he believes they, together, would not make one of the moſt conſiderable and populous Provinces or Colonies for the Age thereof in *America*.

And, for ought the Defendant knows to the contrary, the Number of Souls, in the ſaid three Lower Counties only, excluſive of *Penſilvania*, may be eſteemed to be 40,000,
or near that Number. But denies that when he lately came out of the ſaid Province of *Maryland* into the ſaid three Lower Counties, he was at all ſurprized, as is ſuggeſted by the
130 Bill, to ſee how much thicker of Inhabitants, or of beautiful Plantations, the ſaid three lower Counties were, than the ſaid Province of *Maryland* was; neither, in Fact, are there, to the beſt of the Defendant's Judgment and Belief, more beautiful Plantations in the ſaid three Lower Counties than in the other Parts of the Defendant's ſaid Province of *Maryland*; nor are the ſame thicker of Innabitants, as the Plaintiffs ſuggeſt.

131 Knows nothing of the ſubſequent Letters Patent, in the ſaid Bill alledged to have been obtained by the ſaid Duke of *York* from his ſaid late Majeſty King *Charles* the Second, dated the 22d of *March* 1682, nor ever heard of the ſame, or of ſuch Letters Patent having been obtained or granted, ſave from the Plaintiffs, and *doth not believe there are any*
ſuch, and muſt, therefore, refer to the ſame, if any ſuch were granted, under the Great Seal of *England*, when produced by the Plaintiffs; but, if ſuch Letters Patent, as are laſt
132 mentioned, were obtained by the ſaid Duke of *York*, and granted by his ſaid late Majeſty, as the Plaintiffs ſuggeſt, yet, the Defendant denies that he either knows, or believes, that the ſame were ſo obtained or granted in Truſt for the Plaintiffs late Father, or in Purſuance or Performance of any the Covenants in the ſaid pretended Indentures of Feoffment from the ſaid Duke of *York* to the Plaintiffs ſaid Father, or that the ſaid Duke of *York* delivered the ſaid Original Letters Patent under the Great Seal to the Plaintiffs Father
133 immmediately, *or at any time* to the Plaintiffs Father, as is pretended by the Bill; but the Defendant is adviſed and inſiſts that the ſaid laſt mentioned Letters Patent, if obtained by the ſaid Duke of *York*, as by the Bill is ſuggeſted (but which this Defendant *doth not believe*) could not any way diveſt the Defendant, or any of his Anceſtors, of the Right
134 they had to the ſaid three Lower Counties, or either of them, under their Original Charter of *Maryland*, from the Crown in 1632, ſuch Letters Patent being long Subſequent in time to the ſaid Charter.

Hath heard, and believes it to be true, that the ſaid Duke of *York*, about the time in the Bill mentioned, was ſolliciting and endeavouring to procure from the Crown a further
Grant of the three Lower Counties of *Newcaſtle, Kent* and *Suſſex*, and that, before ſuch Grant paſſed the Great Seal, it was ſtopt, upon a Petition preſented to his late Majeſty
135 King *Charles* the Second, on behalf of the ſaid Lord *Baltimore*, the Defendant's Anceſtor, and in ſupport of his Right and Claim to the ſaid three Lower Counties, as in the Bill is alſo for that purpoſe mentioned, and as herein before is mentioned and ſet forth.

But denies that he either knows, or believes, that the ſaid Duke of *York* ſo ſollicited ſuch further Grant of the ſaid three Counties in purſuance of any Covenants with the Plain-
136 tiffs ſaid late Father, as is pretended by the Bill, or that the Duke of *York*, in caſe he had procured ſuch further Grant, intended it for the Benefit of the Plaintiffs late Father, but for his own Uſe and Benefit.

Hath heard, and believes it to be true, that ſuch laſt mentioned Petition, on behalf of the ſaid then Lord *Baltimore*, having been preſented to his Majeſty, was, by his Majeſty's
Order in Council of ſuch Date as in the Bill is ſet forth, referred to the Conſideration of the then Committee of Trade and Plantations, (and which Committee the Defendant believes
137 did then conſiſt of ſuch of the Lords of his ſaid Majeſty's Moſt Hononrable Privy Council as charged by the Bill.)

Hath likewiſe heard, and believes it to be true, that the ſaid then Lord *Baltimore was*, by himſelf or Council, *heard* thereon, touching his Right and Title to the Land and Soil of the ſaid three Lower Counties.

138 But denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs, that the Plaintiffs late Father was divers, or at any time, heard before the ſaid Committee *in his own Right*, or touching any Right pretended to be *in him* to the ſaid three Counties, or either of them, or any part of them; nor did the Plaintiffs late Father *then*, as the Defendant either heard of, or believes, pretend, or inſiſt upon, any Right *in himſelf* to the ſaid three Lower Counties, or either or them, before the ſaid Committee, but ap-
139 peared, upon that occaſion, as Agent *only* for and on the behalf of the ſaid Duke of *York*, and to ſupport the Duke of *York*'s Pretenſions to the ſaid three Counties againſt the then Lord *Baltimore*, and *not* under the Pretence of any Right *in himſelf*.

Denies that he either knows, or believes, that it appears any otherwiſe, by the Regiſter Books, or any of the Proceedings of the ſaid Committee of Council or Committee of
140 Trade and Foreign Plantations; or that, in the Proſecution of the ſaid Suit, it is from time to time continually taken notice of, or expreſsly mentioned in the Minutes or ſeveral Orders made by the ſaid Committee thereon, that the then Diſpute and Difference was a Diſpute between the then Lord *Baltimore and the Plaintiffs ſaid Father*, although the Plaintiffs Father did ſome time make Uſe of the ſaid Duke of *York*'s Name therein, as holding under the Grants and Covenants for further Aſſurance of the ſaid Duke of *York*, as
141 is alledged in and by the Bill; but on the contrary, the Defendant apprehends, and doubts not but that it will appear from the ſaid Regiſter Books, and all the ſeveral Proceedings throughout the Proſecution of the ſaid Diſpute, from the beginning to the end thereof, that the Duke of *York himſelf*, by his Council, and other Agents, did aſſiſt and interpoſe in the ſaid Suit againſt the then Lord *Baltimore*'s Claim to the ſaid three Lower Counties, and that the Plaintiffs ſaid Father was *no ways concerned*, or acted, therein, otherwiſe than
142 *as Agent* to the ſaid Duke of *York*, or that any of the ſaid Proceedings before the ſaid Committee declare, *or ſo much as even Tacitely*, or otherwiſe imply, or tend to ſhew, that the Grant of the three Lower Counties, which the Duke of *York* had obtained from the Crown after the ſaid pretended Feoffment to the Plaintiffs late Father, or ſuch further Grant which he was then ſolliciting to obtain, or either of them, were in Truſt for, or for the Benefit of, the Plaintiffs late Father, as is pretended and ſuggeſted in and by the Bill.

143 Doth not know, nor can ſet forth, whether there were, or were not, ſuch ſeveral Minutes, Orders and Reports, of ſuch particular and reſpective Dates, made by the ſaid Committee of Council, upon, and during the Continuance of, the ſaid Diſpute, as in the Bill are particularly ſet forth and mentioned, the Defendant not having examined the
144 Council Books, or compared the reſpective Dates, in the Bill mentioned, with the Entries thereof in ſuch Books; nor does he apprehend it at all Incumbent on him ſo to do, but begs leave to refer to the Council Books themſelves when produced, as to the ſeveral and particular Orders, Reports and Minutes that were ſo made by the ſaid Committee pending ſuch Diſpute as aforeſaid.

Hath heard, and believes it to be true, ſuch *final* Order in Council, and of ſuch Date, was made, upon the ſaid Diſpute, touching the Right to the ſaid three Lower Counties,
145 between the then Lord *Baltimore* and the Crown, as in the Bill is for that purpoſe ſet forth, but, for his greater Certainty therein, craves leave to refer to the ſaid Original Order it ſelf, or to the Entry or Minute thereof in the ſaid Council Books when produced.

Saith he is adviſed and inſiſts that the ſaid laſt mentioned Order in Council is ſo far from being an Evidence of any Right in the Plaintiffs, or their ſaid late Father, to the ſaid
146 three Lower Counties, that it makes no manner of mention of any Right pretended thereto by the Plaintiffs late Father, and the Diviſion thereby directed of the ſaid three Lower Counties is only between *his then Majeſty* and the then Lord *Baltimore*.

And the Defendant is adviſed and apprehends and inſiſts that the ſaid laſt mentioned Order in Council in 1685, could no ways legally deprive the Defendant, or his Anceſtors,
147 of the Right they had to the ſaid three Lower Counties under their Original Charter in 1632 from the Crown, which was granted upwards of 50 Years before the making of that Order in Council; and which the Defendant is likewiſe adviſed and inſiſts was inconſiſtent with two former Orders in Council, of the 3d of *July* 1633, and of the 4th of *April* 1638.

148 And apprehends the ſaid Orders in 1633 and 1638 ought to have the greater regard paid to them, becauſe it is much more likely that the Intention of the Crown ſhould be more clearly known in 1633 and 1638, ſo ſoon after the granting the ſaid Charter of *Maryland*, as to the Lands comprized in ſuch Charter, than upon a Diſpute, afterwards, ſo many Years, as in 1685.

149 Saith, for ought the Defendant knows to the contrary, it may be true that, during the ſaid Conteſt in the Years 1683, 1684 and 1685, the then Lord *Baltimore* might produce to the then Committee of Trade and Plantations, a Copy of the ſaid Order of the Committee of Foreign Plantations, dated the 4th of *April* 1638 herein before mentioned, in order
150 to ſhew that former Board's Opinion touching the ſaid Lord *Baltimore*'s Right to the ſaid three Counties, but the Defendant knoweth nothing thereof of his own Knowledge; and the Defendant is an entire Stranger to the Charge in the Bill, that ſuch Copy was not an atteſted Office Copy, and that, therefore, the Board refuſed to admit of the ſame as Evidence, or that they gave the ſaid Lord *Baltimore* time to procure an authentick and atteſted Copy thereof, or that he afterwards declared to the ſaid Board that he could
151 not find the Original, whereby an atteſted Copy might be procured; but, in caſe the Fact was ſo, *which the Defendant neither knows or believes*, it cannot, as the Defendant apprehends, conſidering all the Circumſtances, throw any Imputation upon the Reality of the ſaid Order made ſo many Years before; but the Defendant aſſuredly believes *ſuch Order was made*, and the Copy thereof, produced by the ſaid Lord *Baltimore* on the aforeſaid Occaſion, (in Caſe any ſuch was produced) was a true and exact Copy thereof, and that the
152 ſame *was not any fictitious* Paper drawn up to ſerve that, or any other, particular Purpoſe, as is moſt unreaſonably inſinuated in and by the Bill.

Saith ſuch Orders are, as the Defendant verily believes, now remaining amongſt the Office Books and Papers at and belonging to the Office of *Trade* and Plantations at *Whitehall*, where the Plaintiffs or their Agents may, if they pleaſe, peruſe and inſpect the ſame, and where the Defendant is informed, and believes, the Plaintiffs Sollicitor in this Cauſe hath peruſed and inſpected the ſame, and had Copies thereof.

153 Believes that the Plaintiffs Father had not made any very large, or very expenſive Improvements in the ſaid three Lower Counties, before the time of the ſaid laſt mentioned Order of Council of *November* 1685 was made, nor doth know or believe that the Plaintiffs ſaid late Father, or the Plaintiffs, even at this Day, and to this Hour, have made any large or expenſive Improvements in the ſaid three Counties, or either of them, or that they, or either of them, have been at *any* Expence in ſettling, improving, cultivating, or peopling
154 the ſaid three Counties, or either of them, or any part of them, or that they ever Mortgaged their Eſtate in *England*, or *America*, for that purpoſe, or that they have ruined, or diſtreſſed, or any ways impoveriſhed, their Family, by that means, as is ſuggeſted in the Bill.

But believes that the Plaintiffs late Father, and the Plaintiffs ſince his Deceaſe, may have been at *ſome Expence*, but to what amount cannot ſay or ſet forth, either as to his
155 Knowledge, or Belief, in making Preſents to, and Treating with, the Neighbouring *Indians*, or the *Indians* inhabiting near the ſaid three Lower Counties, and which the Defendant apprehends it was neceſſary for them to do in order to ſupport and promote their Trade with the *Indians*, and to keep up a good Correſpondence with them as they are Proprietors of *Penſilvania*; but denies that he either knows, or believes, that they were at any ſuch Expence on Account of the ſaid three Lower Counties, the ſame being wholly, as the Defendant believes, on Account of their own Province of *Penſilvania*, which Borders upon or Adjoins to the ſaid Counties.

156 Verily believes that the Plaintiffs, or their ſaid late Father, would not have been at any ſuch Expence, or at any Expence at all, for the Benefit or Protection of the ſaid three lower Counties, or the Inhabitants thereof, or for the promoting their Trade, and that all the Expences they were, or ever have been at, was for the Benefit, Safety, Promotion and Improvement of the ſaid Province of *Penſilvania only*, and not of the ſaid three lower Counties, or either of them.

157 Doth not know, but believes it may be true, that the Plaintiffs, or their late Father, may have Mortgaged their Lands in *America*, or their ſaid Province of *Penſilvania*, but not for the Purpoſes or Reaſons in the Bill ſuggeſted, and denies that he either knows, or believes, that they, or either of them, did, or could Mortgage the Lands of the ſaid
158 three Lower Counties, or either of them, or that any one would accept of a Mortgage of the ſame, or lend them any Money thereon, in regard, as the Defendant believes, they have no manner of Right thereto, and could not make the ſame a proper Security, or any Security at all, for any Money that might be advanced them thereon.

Doth not know, nor can ſet forth, either as to his Knowledge, or Belief, whether moſt part of the Lands in the ſaid three Lower Counties are taken up and cleared, as by the Bill
159 is ſuggeſted, or what particular Part or Quantity of the ſaid Lands in the ſaid three Lower Counties are taken up and cleared, or what Number of Plantations there may be thereon; but believes that there are *many* Towns, Villages, Churches, Meetings, Court-Houſes, Aſſembly-Houſes, Harbours, Piers, Dwelling-Houſes, and other publick and private Structures, Buildings, Edifices and Improvements built and made therein.

But denies that he either knows, or believes, or ever heard, ſave from the Plaintiffs and their Agents, that all this has been done, or that the ſaid three Counties have been thus
160 improved, by the great and continual Pains, Labour and Induſtry, or by the many and repeated Toils and Hazards, of the Plaintiffs ſaid late Father, or of the Plaintiffs, or either of them; on the contrary, hath been credibly informed, and believes, that the ſaid Counties were firſt ſettled and improved at the Expence, and by the Care and Induſtry of, the Defendant's Anceſtors, Proprietors of *Maryland*, and the Inhabitants of the ſaid Counties themſelves, and not of the Plaintiffs late Father, or the Plaintiffs, who were at no
161 Expence therein to the Knowledge, or Belief, of the Defendant.

Knows nothing of any Purchaſes, made by the *Swedes* and *Dutch*, of any Tracts of Land within the ſaid three Lower Counties, from the *Indian* Natives, Owners and Poſſeſſors of ſuch Lands, for valuable Conſiderations, or otherwiſe, as pretended by the Bill, nor knows, or believes that any Right, to any ſuch Lands, within the ſaid three Lower
162 Counties, did, or could, paſs to, or veſt in, the Plaintiffs ſaid Father, under or by Vertue of ſuch pretended Purchaſes from the *Indians* by the *Swedes* and *Dutch*.

Neither knows any thing of any Purchaſes, by the Bill pretended to have been made by the Plaintiffs late Father, of the *Indians*, Natives and Owners of any of the Lands comprized within the Limits of the ſaid three Lower Counties, or of any Conveyance to the Plaintiffs late Father of any ſuch Lands, as is ſuggeſted by the Bill, and, therefore,
163 muſt refer to ſuch Conveyances (if any ſuch there were) when produced by the Plaintiffs, and to ſuch Proof thereof as they can make of the due Execution thereof, or paying any Conſideration for the ſame.

But is adviſed and inſiſts the Plaintiffs, or their late Father, can, or could, have no manner of Right, to any part of the Lands within the ſaid three Lower Counties, under,
164 or by Vertue of, any ſuch pretended Purchaſes or Conveyances from the *Indians*, if any ſuch there really were, and that the Defendant's Right or Title thereto, under the ſaid Original Charter of *Maryland* in 1632, can in no wiſe be affected thereby.

Doth not know, nor can ſet forth, whether the Lands, comprized in the ſaid pretended Deeds or Conveyances to the Plaintiffs Father from the *Indians* (if any ſuch there be)
165 do, or do not, of themſelves, make up three fourths of all the Lands within the ſaid three Lower Counties, or whether the other parts of the ſame three Counties have, or have

not,

not, been heretofore purchaſed by the *Swedes* and *Dutch*, the Defendant knowing nothing of ſuch pretended Purchaſes from the *Indians*, or of the Conveyances by which the ſame are pretended to have been aſſured to the Plaintiffs, or the ſaid *Dutch* and *Swedes*, or of the particular Lands comprized therein, or otherwiſe than from the Allegations of
166 the Plaintiffs Bill, by which the Defendant apprehends it is impoſſible for him, or any one elſe, to form any Judgment, or Belief, concerning the ſame, the Deſcription, made uſe of in the ſaid pretended Purchaſe-Deed from the *Indians*, of the Lands thereby pretended to be paſſed, as ſet out by the Bill, being no other but, as far as a Man can ride with a Horſe in two Days, and which may be more, or leſs, according to the goodneſs of the Horſe or Ability of the Rider, and is, as the Defendant apprehends, ſo uncertain a
167 Deſcription as can in no wiſe enable the Defendant to anſwer the Plaintiffs particular Charges relating thereto; nor is it any ways material, as the Defendant is adviſed and apprehends, to the Matters in Queſtion between the Defendant and the Plaintiffs, whether the ſaid pretended Conveyances from the *Indians* contain the whole, three Fourths, or any other particular Quantity, or part, of the ſaid three Lower Counties?

Denies that, to the Knowledge or Belief of this Defendant, any of his Anceſtors knew of any ſuch pretended Purchaſes of the Plaintiffs, or their late Father, from the *Indians*,
168 or of their peopling, ſettling or improving the ſaid three Lower Counties, as ſuggeſted by the Bill, and, therefore, could not be ſaid to have ſuffered the Plaintiffs Father to go on peaceably and quietly without the leaſt Claim or Interruption whatſoever, to make ſuch pretended Purchaſes, or to people, cultivate or improve the ſaid three Lower Counties,
169 after the ſaid Order in Council of 1685, as is alledged in and by the Bill, the Plaintiffs ſaid Father never having made any ſuch Improvements, or peopled or ſettled the ſaid three Lower Counties, or either of them, or any part of them, in the manner as is alledged by the Bill, to the Knowledge or Belief of this Defendant.

Doth not know, but believes it may be true, that the Defendant's Anceſtor, and, as the Defendant believes, the ſame Lord *Baltimore* as in the Bill is for that purpoſe named,
170 preſented a Petition to her late Majeſty Queen *Anne*, in *January* 1708, and that ſuch Petition, for ought the Defendant knows to the contrary, might be to the Effect in the Bill ſet forth; but the Defendant, not knowing the ſame of his own Knowledge, craves Leave to refer to the ſaid Petition, it ſelf, when produced.

Likewiſe believes that ſuch laſt mentioned Petition was referred, by her late Majeſty, to the Conſideration of the then Lords Commiſſioners for Trade and Plantations, about
171 the time in the Bill for that purpoſe mentioned.

Doth not know, but hath heard and believes, that the Plaintiffs late Father, about the time in the Bill for that purpoſe mentioned, preſented his Petition to her ſaid late Majeſty, in Oppoſition to the ſaid other Petition of the then Lord *Baltimore*, and praying that the ſame might be diſmiſſed, and, for ought this Defendant knows to the con-
172 trary, ſuch Petition of the Plaintiffs late Father might be to the Effect in the Bill, but this Defendant, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Original Petition when produced.

Saith, that for ought he knows to the contrary, ſuch Order might be afterwards made by her Majeſty in Council on the ſaid laſt mentioned two Petitions, as in the Bill is ſet
173 forth and mentioned, but, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Order in Council, if any ſuch there be, or the Entry thereof in the Council Books, when produced.

Saith, he doth not know of his own Knowledge, but, for ought this Defendant knows to the contrary, it may be true, that ſuch further Application, and ſuch other Petition, was afterwards made and preſented, in 1709, by the then Lord *Baltimore*, and ſuch Orders made by her late Majeſty in Council thereon, as in and by the Bill are for that pur-
174 poſe ſet forth and mentioned, but, knowing nothing thereof of his own Knowledge, craves Leave to refer to the ſaid Petition and Orders, or the Entry thereof in the Council Books, when produced.

Denies that he either knows or believes that the Plaintiffs late Father, afterwards, or at any time during his Life, was or remained in *quiet and peaceable* Poſſeſſion of the ſaid
175 three Lower Counties, or either of them, or any part of them, *in his own Right*, as pretended by the Bill, or otherwiſe than as aforeſaid.

Hath heard, and believes it to be true, that the Plaintiffs Father departed this Life about the time in the Bill, and, for ought this Defendant knows to the contrary, he might before ſuch his Deceaſe, *duly* make and execute his laſt Will and Teſtament in Writing, of ſuch purport, and to ſuch Effect, as in the Bill is particularly ſet forth.

176 And that the Plaintiffs Mother might, afterwards, prove the ſame, in the manner in the Bill mentioned, but this Defendant knowing nothing thereof of his own Knowledge, muſt refer to ſuch Will, when produced, and ſuch other Evidence as the Plaintiffs ſhall think fit to make concerning the ſame.

Never heard of the Deed-Poll, or Appointment, by the Plaintiffs ſaid Bill ſet forth to have been made and executed by *Hannah Penn*, the Plaintiffs Mother, in purſuance of
177 the Power ſhe had or was inveſted with by the Will of the Plaintiffs late Father, or of the ſeveral Allotments or Diviſions thereby alledged to have been made by her of the Premiſſes in the Bill for that purpoſe mentioned, amongſt the Plaintiffs, otherwiſe than by the Bill, and the ſame, as he believes, being in the Plaintiffs Cuſtody or Power, he muſt therefore crave Leave to refer to the ſaid Deed-Poll, or Appointment, when produced.

178 Hath heard, and believes it to be true, that the Plaintiffs ſaid Mother *Hannah Penn*, departed this Life, about the time in the Bill for that purpoſe mentioned, and that *Dennis Penn* her Son, in the Bill named, might alſo die, an Infant, and without Iſſue, about the time as therein is mentioned.

Hath heard of the Indentures of Leaſe and Releaſe, alledged by the Bill to have been made and executed by the Surviving Truſtees of the laſt Will and Teſtament of the Plain-
179 tiffs late Father, purſuant to the Directions in the Appointment alledged to have been made by the ſaid *Hannah Penn*, but, as to the Contents thereof, muſt refer to the ſame, when produced by the Plaintiffs, being an entire Stranger thereto.

Knows nothing of the pretended Mortgage by the Plaintiffs Bill alledged to have been made by their ſaid Father *William Penn*, to *Joſhua Gee*, *John Woods*, and others, for
180 the Sum of 6600 *l.* or any other Sum, or of the ſaid pretended Mortgage having lain at Intereſt for above 20 Years, as by the Bill is ſuggeſted, or for any other Number of Years or Time, or of the Reconveyance pretended to have been made thereof by the Mortgagees in 1729, neither did this Defendant ever hear thereof, ſave from the Bill, and from their Agents, and therefore muſt refer himſelf to the ſaid Mortgage and Reconveyance, if any ſuch ever were, when produced by the Plaintiffs.

181 Denies that he either knows, or believes, or ever heard, ſave from the Bill, that the Plaintiffs upon their ſaid Mother's Deceaſe, or at any time whatſoever, either entered into, or are now, in Poſſeſſion of the ſaid three Lower Counties, or either of them, or any part of them, or of all or any of the Lands, Tenements or Hereditaments therein, under or by Vertue of the ſaid pretended Will, Appointment, Conveyance, Mortgage, and Reconveyance, as by the Bill is untruly ſuggeſted, nor doth know or believe that the Plain-
182 tiffs, or either of them, have any Right or Title thereto under ſuch pretended Will, Appointment, Conveyance, Mortgage, or Reconveyance, or otherwiſe howſoever.

Denies that he either knows or believes that the ſaid *Hannah Penn*, after the Deceaſe of the ſaid *William Penn*, did enter into, or from the time of the death of the ſaid *William Penn*, down to the time of her own death, was in the quiet and peaceable Poſſeſſion of, the ſaid three Lower Counties, or of all the Lands, Tenements, and Hereditaments therein, or any part thereof, *in her own Right*, or as a Truſtee, or in Right of, the Plaintiffs, or either of them, as by the Bill is ſuggeſted, or in any other manner whatſoever than as Intruders upon the Right and Property of this Defendant and his ſaid Anceſtors, and ſubject thereto, and to the Right claimed thereto by the Crown as aforeſaid.

Neither doth know or believe, or ever heard, ſave from the Plaintiffs, that the ſaid *William Penn*, in his Life-time, or the ſaid *Hannah Penn*, after his death during her Life,
184 or the Plaintiffs ſince her death, down to the time of the Plaintiffs ſaid Bill, or ſince, reſpectively, and frequently from time to time as Occaſion required, appointed Deputy or Lieutenant-Governors of the ſaid three Lower Counties, *in the manner pretended* and ſuggeſted by the Bill, or in any other manner whatſoever than as before mentioned and ſet forth by this Defendant.

185 Or that they, or either of them, begun, continued, or carried on the great Improvements now in being thereon at their own ſole and prodigious Expence, as pretended by the Bill, or that they, or either of them, were at *any* Expence on that Account, other than what they were obliged neceſſarily to be at for the Benefit and Safety of their ſaid Province of *Penſilvania*.

Believes that the Plaintiffs, and their ſaid late Father and Mother, were ſo well apprized and conſcious of the Right of this Defendant, and his ſaid Anceſtors, to the ſaid three
186 Lower Counties, and of the Weakneſs and Injuſtice of their Pretenſions thereto, that they would never have put themſelves to *any* Expences for the improving or cultivating the ſaid three Lower Counties upon ſo precarious and illegal a Pretence as they ſet up to the ſame, and which they muſt, as the Defendant believes, be ſenſible they could never ſupport when properly and legally conteſted.

Denies that he ever made ſuch Application to the ſaid *Hannah Penn*, for ſetting out and deſcribing of the Bounds of the ſaid other Province of *Maryland* and *Penſilvania*,
187 during the Infancy of the Plaintiffs, as is alledged and ſuggeſted in and by the Bill, or at any other time or times whatſoever, or that he this Defendant then, or at any other time or times whatſoever, or upon any Occaſion whatever, admitted to the ſaid *Hannah Penn*, or to any other Perſon whatſoever, that he had no Right or Title to the ſaid three Lower
188 Counties, or to any part of them, as is untruly alledged by the Bill; on the contrary, ſaith, he this Defendant, and all and every of his Anceſtors the Lords *Baltimore*, to the beſt of his Knowledge and Belief, always, from time to time, and upon every Occaſion, claimed, maintained and ſupported their Right and Title to the ſaid three Lower Counties, and every part of them, in the beſt manner they were able, and never, in any manner whatſoever, admitted they had no Title thereto, and have been at very great Ex-
189 pence from time to time *in ſupporting their Right thereto*, by Building of Fortifications in the ſaid three Lower Counties, to defend the Inhabitants thereof from the *Indians*, and in improving and cultivating the ſame.

Denies that he, to the beſt of his Knowledge, Remembrance and Belief, ever made any ſuch Repreſentation or Propoſals to the ſaid *Hannah Penn*, or to any ſuch or the like Effect, as is untruly ſuggeſted in and by the Bill, or that any ſuch Agreement was, thereupon, made, entered into or executed by and between the ſaid *Hannah Penn* and this De-
190 fendant as by the ſaid Bill is ſuggeſted; but believes it to be true that the ſaid *Hannah Penn*, by her Self and Agents, and others on her behalf, did apply to this Defendant, about the Year 1723, and made ſome ſuch or the like Repreſentation and Propoſals to this Defendant, as the Plaintiffs by their ſaid Bill ſuggeſt this Defendant made to her, and deſired
191 and requeſted this Defendant to enter into an Agreement in Writing, in Order to ſettle the Boundaries of the ſaid two Provinces of *Maryland* and *Penſilvania*, and for the Prevention of all Contention and Differences between the Inhabitants of the ſaid Provinces in the mean time.

And this Defendant, thereupon, and at the earneſt Requeſt and Deſire of the ſaid *Hannah* and others on her behalf, conſented to enter into ſome Treaty of Agreement for that purpoſe.

192 And he this Defendant did, accordingly, afterwards, to that end, and about the time in the Bill mentioned, to the beſt of his Remembrance and Belief as to the time, enter into and execute an Agreement with the ſaid *Hannah Penn*, to the Purport and Effect in the Bill particularly ſet forth, but for his greater certainty thereof craves Leave to refer thereto, when produced.

And believes that one Part of ſuch laſt mentioned Agreement was executed by the ſaid *Hannah Penn* and the other Perſons in the Plaintiffs Bill for that purpoſe named, and de-
193 livered to this Defendant, but, not having the ſame in his Cuſtody or Power, cannot ſet forth the ſame as is prayed by the Plaintiffs Bill, but as to the Contents thereof refers to that Part thereof in the Plaintiffs Cuſtody, when produced.

Hath heard and believes that ſuch Proclamations were, afterwards, duly publiſhed in the ſaid Provinces of *Maryland* and *Penſilvania*, by the Deputy-Governors thereof, in
194 Purſuance and Performance of the ſaid Agreement, and about the times, in the Bill particularly ſet forth, and that ſuch Proclamation publiſhed by the Deputy-Governor of *Maryland* was mentioned to be publiſhed by the Directions of this Defendant.

Hath heard, and believes it to be true, that Matters remained at quiet, under the ſaid laſt mentioned Agreement, not only during the 18 Months therein mentioned, but for a much longer time, in Vertue and Conſequence, and under the true Intent and Meaning and Equity of the ſaid Agreement, as by the Bill is alledged.

195 But denies that he either knows, or believes, that the Plaintiffs late Mother, or the Plaintiffs, on their Parts, juſtly and truly obſerved the ſaid Agreement, by not granting out or pretending to grant out any Lands near to the Borders of *Penſilvania* or *Maryland*, or in the manner by the Plaintiffs Bill pretended; on the contrary, ſaith he hath heard and believes that the Plaintiffs late Mother, during her Life-time, and the Plaintiffs after her Deceaſe, and pending the Continuance of the ſaid laſt mentioned Agree-
196 ment, frequently granted out Lands, near the Borders of the ſaid Provinces, and Lands within the ſaid three Lower Counties, *without any legal Right or Authority* for their ſo doing, and with a View and Deſign of defeating and depriving this Defendant of his Right and Title to the ſaid three Counties, and of extending their Grants and Settlements far beyond the true Limits and Bounds of their ſaid Grant or Charter of *Penſilvania*, and in direct Breach and Oppoſition of the ſaid Agreement, to the great Wrong and Injury of this Defendant.

197 Denies that the exact Marks and Bounds of the ſaid Provinces of *Maryland* and *Penſilvania*, not being markt out purſuant to the Deſign and Intention of the ſaid laſt mentioned Agreement, was any ways occaſioned by any Neglect in this Defendant, this Defendant being then ready to have done it, on his part, and amicably to have adjuſted all Matters then in Difference or Diſpute between this Defendant and the Plaintiffs or their ſaid Mother; and the not doing the ſame was wholly occaſioned by the then neglect of the Plaintiffs and their ſaid late Mother.

198 Saith that he, on his Part, obſerved and performed the ſaid Agreement, in every reſpect, as far as he was able, and was then, on his Part, ready to have carried the ſame into Execution, if the Plaintiffs, or their ſaid late Mother in her Life-time, would have concurred with him therein.

Denies that he either knows, or believes, that the Plaintiffs ſaid Mother, or the Plaintiffs, or either of them, did juſtly and honeſtly fulfil and perform the ſaid Agreement, on
199 their Parts, according to the true intent and meaning of the ſame, as by the Bill is ſuggeſted, but ſaith that he did, on his Part, fully and truly, and in all points and in every reſpect perform and fulfil the ſame.

Denies that he did, by himſelf, or any of his Governors, Commiſſion Officers, and other Servants, to the beſt of his Knowledge and Belief, from the time of his firſt entering into
200 the ſaid Agreement, or at any time pending the Continuance thereof, make many, or any large or extenſive Warrants, or Grants of great Quantities of Lands, to ſundry Perſons, without ſpecifying where or in what Places the ſame were to lie, *with intent* that ſuch Grantees ſhould ſeat down upon, or take up, any Lands belonging to the Plaintiffs, or either of them, or their ſaid late Mother, or any of their Anceſtors, as is untruly alledged in the Bill, or *with any View*, or Deſign of extending his Settlements beyond the true Limits
201 and Bounds of the Grant made to the ſaid *Cecilius*, this Defendant's Anceſtor.

Saith

Saith he did on or about the first Day of *July* 1731, as in the Bill is for that purpose mentioned, present, or cause to be presented, to his present Majesty, such Petition, praying his Majesty to order the Proprietors of *Pensilvania*, to join with him in settling and ascertaining the Boundaries of the said two Provinces of *Maryland* and *Pensilvania*, as in
202 the Bill is for that purpose mentioned and set forth, and which, he humbly apprehends and conceives, is a clear and manifest Evidence of this Defendant's real Intention and Desire of performing the Agreement herein before mentioned, and shews the not performing of that Agreement, or the not carrying it into Execution, was not owing to any Neglect or Design in this Defendant, as is pretended by the Bill, but to the Neglect or Design of the Plaintiffs.

203 Denies that he either knows, or believes, that he prayed or desired by such his last mentioned Petition to his Majesty, presented on the first of *July* 1731 as aforesaid; that the Bounds of the said Provinces might be ascertained or settled *upon the foot of the said Order in Council of* 1685, or said other Order in Council of 1708, as suggested by the Bill;
204 neither did this Defendant by such Petition, to the best of his Knowledge or Belief, exclude, or intend to exclude, the said three Lower Counties of *Newcastle*, *Kent*, and *Sussex*, or either of them, or any part of them, from being adjudged and determined to be part of his said Province of *Maryland*, or thereby mean, or intend, to leave to the Plaintiffs the said three Lower Counties, or either of them, or any part of them, as by the Plaintiffs said Bill is insinuated.

205 Denies that he *ever* applied to the Plaintiffs, or either of them, or *any other Person*, or Persons on their Behalf, before the presenting such his Petition to his Majesty in *July* 1731 as aforesaid, not to give up to him the said three Lower Counties, but only to settle the Limits and Bounds of the said Provinces of *Pensilvania* and *Maryland* exclusive of the said three Lower Counties, or either of them, or any part of them, or that he presented, or caused such his last mentioned Petition to be presented, to his Majesty, as aforesaid, in
206 Order to spur the Plaintiffs on, or to bring them to a Compliance with any such Proposal or Desire, as is untruly suggested in and by the Bill.

But, on the contrary, this Defendant *always* look'd upon the said three Lower Counties of *Newcastle*, *Kent* and *Sussex*, and every of them, and every part of them, to be part of, and of Right appertaining to, his said Province of *Maryland*, and always insisted upon his Right thereto as such, and *never* acknowledged or *believed* the Plaintiffs, or either
207 of them, had any Right or Title thereto, whatsoever.

Hath heard and believes his Majesty, by his Order in Council, of such Date as in the Bill, was pleased to refer this Defendant's said last mentioned Petition to the Consideration of the Lords of the Committee of his Privy Council for hearing Appeals and Complaints from the Plantations, and that their Lordships of the said Committee, by their Order, like-
208 wise of such Date as in the Bill, were pleased again to refer the said last mentioned Petition to the Consideration of the Lords Commissioners for Trade and Plantations, as by the Bill is set forth, but, for his greater Certainty therein, begs leave to refer to such Petition, Orders, or the Minutes thereof, in the proper Register Books, when produced.

Saith that, soon *after* this Defendant's Application to his Majesty by Petition as aforesaid, for settling the Boundaries of the said Provinces, and the Plaintiffs perceiving that this
209 Defendant was intent and resolved to proceed in such Application in Order to obtain his Majesty's Determination thereon, the Plaintiffs, with a View to put a stop to the same, *made frequent Applications to this Defendant*, and, at last, by their earnest Sollicitations and *frequent repeated* Requests, prevailed upon this Defendant to enter into a Treaty with them for settling and determining the Bounds of the said Provinces amicably between themselves, and to drop the Application he had made to his Majesty by Petition in the man-
210 ner before mentioned, which he admits he was prevailed upon by them to do, and, therefore, did not sollicite or obtain any final Order from his Majesty upon such last mentioned Petition.

Denies that such last mentioned Treaty, between the Plaintiffs and this Defendant, for the purpose aforesaid, *was first proposed by this Defendant*, or entered into by the Plaintiffs, or either of them, upon this Defendant's Motion, Application, or Request, or of any Agent or Person concerned for this Defendant, or on this Defendant's Behalf, to the Know-
211 ledge or Belief of this Defendant, as by the Bill is *untruly* suggested; but, on the contrary, saith said last mentioned Treaty was *first proposed* by the Plaintiffs, and was agreed to, and entered into, by this Defendant, *at the proper Instance, Desire and Request of the Plaintiffs, and upon their own Motion and Sollicitation entirely.*

Saith that one of the Plaintiffs frequently waited upon this Defendant, at his House in *Grosvenor Square*, after such this Defendant's Application to his Majesty by Petition
212 as aforesaid, in order to prevail on this Defendant to come into such Agreement.

Denies that he either knows, remembers or believes, that he this Defendant, in order thereto, or to bring about the last mentioned Treaty, *did apply* by himself in Person to the Plaintiffs Sollicitor, or to the Plaintiffs, or either of them, or any other Agent of theirs, or Persons concerned for them, and press and desire to have a Meeting between the Plain-
213 tiffs and this Defendant in order to settle and agree the Matters in Difference between them, in the manner as by the Bill is *untruly* suggested; but, on the contrary, the Plaintiffs pressed and desired this Defendant to have a Meeting for that purpose, and to treat with them about the same.

Denies that he did, then, or at any other time, declare that if the Plaintiffs would not agree thereto he would set up his former Pretence to the said three Lower Counties, as
214 pretended by the Plaintiffs said Bill, in order to induce or bring the Plaintiffs to a Compliance with any such pretended Proposal or Accommodation, as is most untruly suggested in and by the Bill.

Neither did this Defendant, by his entering into the said last mentioned Treaty, intend, or design, to make, or so much as conceive, or imagine that he should or could make, to himself, any *great* or undue Advantage thereby against the Plaintiffs by means of their pretended Ignorance of the Premisses, as is most untruly insinuated in and by the Bill.

215 Neither did this Defendant, then, know or believe, nor doth he now know or believe, that the Plaintiffs, at the time of the said Treaties being set on foot, were wholly or
216 utterly unacquainted with, or Strangers to, the said old Disputes in 1683, 1684, 1685, and 1709, as by the Bill is alledged, or that the Plaintiffs, or either of them, were at all, or in any manner whatsoever, Strangers to, or unacquainted therewith; but, on the contrary, this Defendant verily believes the Plaintiffs were then thoroughly, and in every respect, as well acquainted with all and every the said former Proceedings and Disputes touching the Matters aforesaid, in the said several Years of 1683, 1684, 1685 and 1709, as they now are.

217 Neither did this Defendant treat with them, or enter into the said last mentioned Treaty, with any View or Design, or even so much as an Imagination, that he could or should impose upon the Plaintiffs, or either of them, or take, or have any Advantage of them, upon any of the Accounts in the Bill contained, or any other Account whatsoever.

Nor doth he now know or believe that the Plaintiffs, or either of them, were under any of the pretended Disadvantages in the Bill mentioned at the time of such last mention'd
218 Treaty, as is suggested in and by the Bill.

On the contrary, this Defendant saith he most assuredly believes the Plaintiffs were not only as well, but much better apprized, than this Defendant, of all and every the several Orders and Proceedings, and other Transactions, that had been before had and made touching the Boundaries of the said Provinces, and the several and respective Claims that had
219 from time to time been made thereto, and that he this Defendant was under much greater Disadvantages, and much more liable to be imposed on, in such last mentioned Treaty, than the Plaintiffs.

And verily believes that the Plaintiffs, and their Agents, had in View the gaining great Advantages from this Defendant by such Treaty, or, otherwise, they would not have so *earnestly applied* to this Defendant, and *taken such Pains*, and used such Endeavours, as they really did, to prevail on this Defendant to come into such Treaty.

220 Saith that, pending such Treaty, and before they came to any Conclusion or Agreement thereon, this Defendant gave the Plaintiffs *John* and *Thomas*, and Mr. *Paris* their Solli-
citor, and other their Agents, *several Meetings*, and at different Places, to receive *their* Proposals, and treat with them concerning the same; but, whether such Meetings were had
at the particular and respective times in the Bill for that purpose mentioned, this Defendant doth not know, or remember, or can set forth, having made no Memorandum, or kept
221 any Account thereof, and therefore, this Defendant cannot set forth, either as to his Knowledge, Remembrance, or Belief, the particular or respective Days on which such several Meetings or Treaties were had, *though this Defendant believes that several Meetings were had between the* 11*th of* June 1731 *and* 10*th of* May 1732.

Believes he might, at some or one of the said Meetings, upon the said last mentioned Treaty, produce, out of his Pocket, a Map or Plan of *Pensilvania*, which had been, *many*
222 *Years before*, transmitted by one of his Agents in *Maryland*, and had been, by such Agent, as this Defendant verily believes, received from *Pensilvania*, and, with a Rule and Pencil, draw Lines thereon, but, in what particular Parts, this Defendant doth not remember, to denote in what manner he thought the bound Lines ought to run.

But saith that he did not intend, at the time, or by the manner, of drawing the said Lines, to exclude from him this Defendant, and to include to and for the Plaintiffs,
223 *any thing but what he then apprehended the Plaintiffs had good Right to either* in Law or Equity; whereas, this Defendant is *since* fully convinced, the Plaintiffs had no such Right to the said three Lower Counties.

Saith he was guided by the said Map or Plan in such Treaty, this Defendant, of his own Knowledge, being then an entire Stranger to the said Peninsula, and every Part and Place therein, and knowing very little thereof but from Information, and the several Representations that were made to him thereof by the Plaintiffs and their Agents, and from
224 the said Map and Plan, which this Defendant saith he hath since found, and been convinced, was greatly faulty, incorrect and untrue.

Which said Map or Plan this Defendant saith was neither made by his Order, or Directions, but was made, as he verily believes, by the Plaintiffs, or their Ancestors, or their Agents, and sent by them to this Defendant's Agents in *Maryland*, and was made use of by this Defendant as the first that came to hand, this Defendant not then imagining that
225 there was, or could have been, *so great a falsity therein as he hath since discovered there really was.*

And the reason that this Defendant believes, that the said Map or Plan was made or framed by the Plaintiffs, or their Agents, is, for that, when this Defendant was treating with the Plaintiff *Penn* about the Bounds of the said Province, and the manner in which the Limits should be run, and when this Defendant produced the said Map or Plan out of
226 his Pocket, and drew Lines thereon, as herein before is mentioned, the Plaintiff *Penn* himself, at the same time, produced a little Map or Plan, drawn with a Black-Lead Pencil, which was, as this Defendant observed and verily believes, in all things, alike to that which this Defendant so produced, and which the said *Penn* told this Defendant had been sent over, to him, from *Pensilvania*, by *Logan* his Deputy-Governor, in order to treat with this Defendant about the Bounds of the said Provinces, and which said Plan or Map the
227 said Plaintiff *Penn* made the same use of, by drawing Lines and otherwise, as this Defendant did of that he this Defendant produced.

Saith that, for the reason before mentioned, he cannot set forth or say on what particular Day such Meeting was had, when he so produced and mark'd the said Plan or Map as before mentioned, nor whether the same was or was not on the 20th Day of *July* 1731, as by the Plaintiffs said Bill is alledged; neither doth apprehend it any ways material on
228 what particular Day such Plan or Map was so produced and mark'd by this Defendant as aforesaid, in regard this Defendant admits it was done at some or one of the said Meetings, pending the said last mentioned Treaty, and before they came to any Conclusion or Agreement thereon.

Believes he might at the said, or some other of the said, Meetings, but at what particular time or times he doth not remember, nor can set forth, otherwise than that it was
229 before the said 10th of *May* 1732, insist that his Northern Bounds for *Maryland* should extend Northwards as far as to within 15 Miles South of the City of *Philadelphia* in *Pensilvania*, which this Defendant saith he humbly apprehends was, instead of being further, *not near so far* as what the just Bounds of *Maryland* ought to extend, agreeable to the Limits and Bounds described by the said Original Charter of *Maryland*.

230 And denies that he then believed, or knew, or that he now believes or knows, or that the same in Fact is true, to the Knowledge or Belief of this Defendant, that the so extending the Northern Bounds of *Maryland*, to within 15 Miles South of *Philadelphia*, in the manner aforesaid, was much, or at all higher, or further, than the Northern Bounds of *Maryland* ought to extend.

And saith that, for ought he knows to the contrary, the Plaintiffs, or their Agents on their behalf, upon this Defendant's insisting that his Northern Bounds of *Maryland* ought
231 to extend in the manner before mentioned, might desire that the same might not be agreed upon to extend *so far* Northwards, but only to within 20, or at most to within 18 Miles, of the said City of *Philadelphia*, as by the Bill is suggested; but this Defendant doth not *particularly* remember the same, and if the Plaintiffs, or their said Agent, did
232 make any such Objection to the Extent of the said Northern Bounds of *Maryland*, as the Plaintiffs set out by their Bill, this Defendant believes he did refuse to Consent thereto, he then, and still, looking upon, and esteeming, the said Northern Bounds of his said Province of *Maryland*, as he then insisted upon them to extend, to be fully comprized and included within the Limits and Bounds described by the said Original Charter of *Maryland*, and that all the Lands comprized within *such* Bounds and Limits are properly Part of,
233 and of Right appertain to, his this Defendant's said Province of *Maryland*, and are not Part of, or belong or appertain to, the said Province of *Pensilvania*, as by the Bill is suggested; nor were the Northern Bounds of the said Province of *Maryland*, as this Defendant is advised and humbly insists, confined by his Charter, as the Plaintiffs pretend, to the 39th Degree compleat, or to the beginning of the 40th Degree, but on the contrary, by the Original Charter do and ought to extend to the 40th Degree compleat.

234 And is advised and conceives that the Plaintiffs agreeing to the Boundaries to be settled, as mentioned in the said Agreement, cannot be look'd upon as giving them any such Merit as they would willingly ascribe to themselves by their Bill, or any Merit at all, but, on the contrary, it now *plainly appears*, as this Defendant apprehends and believes, that the said Plaintiffs had, by the said Agreement, *endeavoured to impose upon*, and deceive, this Defendant in the settling the said Boundaries *in manner after mentioned*, and by
235 pretending to give unto him that which was *not theirs* to give, and which they had *no Right or Title to*, being comprized within the *Charter* of *Maryland*, and no ways comprized within the Charter of *Pensilvania*, but which did not then appear to this Defendant, who was, then, not thoroughly acquainted with the Situation of the said Country, otherwise than as aforesaid.

Saith, that whatever Objections may have been made by the Plaintiffs to the Proposals, were *pretended*, and colourable only, and made the better to conceal and gloss over their
236 Designs upon this Defendant, and founded on an *untrue* Suggestion that the 40th Degree was compleat and ended where this Defendant hath since found and discovered it is not; and were, as this Defendant verily believes, only barely mentioned, and that not with any Design or View of having any Weight or being agreed to by this Defendant, the same, as stated upon the face of the Plaintiffs own Bill, being most unreasonable and unjust, and what they could never expect this Defendant would agree to; in regard this Defendant
237 most assuredly believes they themselves must know, that the utmost of the said Northern Limits of the said Province of *Maryland*, as set out by their Bill to have been agreed to by them, are clearly and expressly comprized and included within the said original Charter of *Maryland*, and were no Part of the Province of *Pensilvania*, and were what the Plaintiffs had not the least Shadow or Colour of any legal Title to.

238 Denies that he either knows, or believes, that all, or any Parts, of the said Northern Limits of the said Province of *Pensilvania*, as set out by the Plaintiffs said Bill to have been agreed between them and this Defendant in the manner therein mentioned, were any Part of *Pensilvania*, or any ways included within the Charter of *Pensilvania*, or could legally pass

pass to the Plaintiffs, by their Charter, or otherwise; but, on the contrary, were this Defendant's Right and Property long before such Treaty or Agreement with the said Plaintiffs, under, and by virtue of, the said original Charter of *Maryland* to the said *Cecilius* in 1632, as before is set forth *.

* *The Defendant's Agents had lost themselves, and he swears to the Answer they drew, and so here insists upon his Right by his Charter to the 43d Degree; for that's the Northern Limit of* Pensilvania.

239 Saith, he believes the Plaintiffs *John* and *Thomas Penn* did, at the said last-mentioned Meeting and Treaty, as before set forth, produce a Map or Plan, or pretended Map or Plan, of the Parts in question; and for ought he knows, or remembers to the contrary, they, or one of them, or some one of their Agents there, might draw Lines on their said
240 Map or Plan they then produced, to denote in what manner the then proposed Bound-Lines should run, as by the Bill is set forth.

Believes, that the manner in which it was then proposed the said Bound-Lines should run, being, as he has since discovered, so greatly for the Advantage and Benefit of the Plaintiffs, and so much to the Disadvantage and Injury of the Defendant, (and which the Defendant believes the Plaintiffs were then very sensible of, they being very well ac-
241 quainted with the Situation of the several Parts of the said Peninsula) and the Defendant being not thoroughly ——— therewith, and relying solely upon the Truth and Exactness of the said Map or Plan, by which he was greatly misled and deceived, as herein after is mentioned, the Plaintiffs were glad to close with the said Proposals, and to comply with the manner in which it was proposed the said Bound-Lines should run; the Plaintiffs, as the Defendant verily believes, then well-knowing that the same would exclude great
242 part of the said three Lower Counties, which were included with the Defendant's Bounds of *Maryland*, from being part of *Maryland, without including any Part, or any Tract of Land whatever, that the Plaintiffs had any Right or Pretensions to*; so that the Agreement, upon that footing, was, in effect, a giving up, from the Defendant to the Plaintiffs, of great Parts of the said three Lower Counties, which the Defendant insists were his Property, *without any the least Consideration* moving from the Plaintiffs to the Defendant, as a Satisfaction or Equivalent for the same.

243 Denies that the said Treaty was carried on, by the Defendant, on his Part, in the over-bearing manner as is untruly suggested in the Bill, or that this Defendant refused to recede from any thing he at first insisted on; but, on the contrary, the Defendant, pending the said Treaty, was prevailed upon to make great Concessions to the Plaintiffs, and which
244 the Defendant never would have done, if he had had a thorough Knowledge and Insight into the true Situation of the several Parts of the said Peninsula; and if the said Map or Plan, from which the said Agreement was founded, had been a true and exact Map or Plan thereof.

Saith, that the Plaintiffs, and for the Reasons before-mentioned, as the Defendant verily believes, did agree that the said Map or Plan, so produced by the Defendant, should be engraved by Mr *Senex*, in order to be affixed or annexed to, and to explain, the Meaning of the Agreement they should come to, as by the Bill is suggested; and that the said
245 Mr. *Senex*, might be proposed or named by this Defendant, or some other on his behalf, and agreed upon as a more proper Person to engrave the said Map or Plan than the Person at first proposed and named by the Plaintiffs, if any other was named by them, which the Defendant doth not remember that there was.

Believes, that the said Map or Plan was printed, or stamped, on the original Agreement afterwards executed on the 10th of *May* 1732.

246 Believes there is *No material Difference, between the Map or Plan so produced by the Defendant, and that printed or stamped on the said original Articles* of Agreement of 1732.

Believes he did, at some one of the Meetings pending the said Treaty, but whether particularly on the 2d of *July* 1731, as in the Bill, cannot remember or set forth, produce
247 a Paper, containing Notes of some few things he proposed should be inserted as Part of the said intended Agreement, and that such Notes were of the Defendant's own Handwriting; but absolutely denies that the same were, or purported to be, compleat Notes of *every* thing, or to contain the Substance of *all* the several Matters proposed as Part of
248 the said intended Agreement; or that he proposed, desired or insisted, or that the Plaintiffs agreed, that such Agreement should be drawn upon the foot of those Notes only, as is insinuated in the Bill; but the same were only some few Notes concerning the Matters in dispute, which this Defendant had committed to Writing as they occurred to his Mind, lest they might afterwards escape his Memory.

Believes he read the same to the Plaintiffs, as his own Notes, and Part of *his own* Proposals; but not as entire or compleat Notes, or to contain *all* this Defendant's Proposals.

249 Saith, that he cannot now, at this distance of time, upon his Memory, or otherwise, not having kept the said Notes by him, nor having any Copy thereof, set forth the particular Contents thereof, tho' whatever the Contents were, believes the same *may be contained* in the Agreement that was afterwards executed between the Defendant and the said Plaintiffs.

Saith, that he cannot set forth a full, true, and exact Copy thereof, at full Length, in the very Words, Figures, Letters, and Abbreviations thereof, as the Plaintiffs have re-
250 quired him to do by their Bill, the same being now lost, mislaid, or destroyed, as the Defendant believes; such Notes, after executing the said Agreement, being disregarded and looked upon no otherwise than as waste Paper.

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Doth not know, or believe, that running a Circle at the distance of *two* Miles from *Newcastle* is, in any sort, contrary or repugnant to the Words of the pretended
251 Agreement, which describes the Circle to be a Circle of 12 Miles, whose Semidiameter must be 2 Miles, and of consequence its whole Diameter 4 Miles, which will make a Circle, or what would be commonly called the Periphery of the Circle, 12 Miles or thereabouts, as the Plaintiffs alledge by their Bill.

Believes, the Plaintiffs, or one of them, or some other Person on their behalf, did desire the Defendant to deliver to them his said last mentioned Note, or Proposal, in order to
252 insert the same in the said intended Agreement; but denies, that he at first agreed thereto, and afterwards said he had no Copy thereof, and therefore delivered it to his said Sollicitor, in the manner as by the Plaintiffs Bill is suggested, tho' the Defendant believes, that, upon the Plaintiffs desiring to have his said Notes, he might and did say, that he had no Copy thereof, but would deliver the same to his Sollicitor, in order to give the Plaintiffs a Copy thereof: And that he the Defendant did then, accordingly, deliver the
253 same over to his said Sollicitor, for the purpose before-mentioned; and that He might make and give the Plaintiffs a Copy thereof, in order that the same might be inserted, and made Part of the said intended Agreement; and that he the Defendant, did consent and direct his said Sollicitor, to give to the Plaintiffs a Copy thereof.

Hath heard, and been informed by his said Sollicitor, and therefore believes it to be true, that he did, in some few Days afterwards, give the Plaintiffs, or their Agent, a Copy
254 of the Defendant's said Notes, as in the Bill; but denies, that he either knows, believes, or hath ever heard or been informed, by his said Sollicitor, or otherwise, that the Copy, so delivered by the Defendant's said Sollicitor, to the said Plaintiffs or their Agents, was very much, or at all, abbreviated from the original Notes so produced by this Defendant
255 at the said Meeting, as aforesaid; but, on the contrary, the Defendant hath been informed, by his said Sollicitor, and therefore believes, that the same was a true Copy thereof, and no ways altered or abbreviated from what it was when the Defendant so produced the same, as aforesaid.

Saith, that he cannot answer, or set forth, whether the material Parts of the said Copy of such Notes, so delivered by the Defendant's said Sollicitor to the Plaintiffs or their
256 said Agent as aforesaid, are, or are not, in the Words, or to the Effect, in the Bill, he having never seen such Copies, or known any thing thereof, save from the Information of his said Sollicitor, and therefore begs leave to refer, for certainty, to the said Copy, when produced by the Plaintiffs.

Neither can the Defendant answer, or set forth, for the Reasons before-mentioned, at this distance of time, whether the *material Parts* of such Notes, so produced by the Defendant as aforesaid, were, or were not, in the Words, or to the Effect, in the Plaintiffs said Bill suggested, the Defendant not having the same in his Custody or Power, as before is mentioned.

257 Nor can the Defendant, now, set forth where the said original Note, or Proposal, now is, and therefore the Defendant cannot undertake to produce the same at the Hearing of this Cause, as the Plaintiffs pray by their Bill, which, otherwise, he would readily have done.

But saith, that, if he should hereafter find the said Notes, he will be ready to produce the same at the Hearing of this Cause.

258 Saith, he hath been informed by his said Sollicitor, and believes it to be true, that the Plaintiffs Sollicitor did, some time after such Treaty as aforesaid, and for ought the Defendant knows to the contrary, it might be on the 16th of *August* 1731, as in the Bill is set forth, deliver over to Mr. *Sharpe*, the Defendant's Sollicitor, a Draught of the
259 intended Articles of Agreement, between the Defendant and the Plaintiffs, which had been prepared by the Plaintiffs Agents and Sollicitor, in order to be considered and settled by the Defendant.

Hath heard, and believes it to be true, that the said intended Articles of Agreement might lay before the Defendant, and his Agents, for his and their Perusal, from the time they were so delivered out by the Plaintiffs said Sollicitor, to about the Beginning of *May* following; but the more exact time they so lay before this Defendant, as aforesaid, the Defendant cannot set forth.

260 Admits, that he was assisted, in the settling the said intended Articles of Agreement, by Mr. *Wynne* his Council, and Mr. *Sharpe* his Sollicitor, as in the Bill is alledged; but denies, that he was assisted therein by Mr. *Senex*, or that Mr. *Senex* perused the same, otherwise than in regard to the Propriety of some of the Terms and Expressions made use of in the said Agreement; nor was this Defendant so much as once with the said Mr. *Senex* thereon, nor his Sollicitor, but once, as the Defendant is informed and believes, tho'
261 the Defendant is informed he was often applied to by the Plaintiffs Agent as his Mathematician.

But believes the said Mr. *Senex* was no otherwise concerned, than being consulted in relation to the Propriety of some of the Terms used in the said Agreement, and in engraving the Plate annexed to the said Articles; in doing of which the Defendant believes, he acted a very indifferent Part, and was looked upon to be, and was, as the Defendant verily believes, as much in the Service and Interest of the Plaintiffs, as of the Defendant.

262 Neither was the Defendant assisted, in the perusing and settling the said intended Articles of Agreement, by his Lieutenant-Deputy-Governor of *Maryland*, Mr. *Ogle*, as the Plaintiffs alledge by their Bill; nor was the Defendant helped or assisted therein by any other Persons than as before mentioned.

Saith, that, whilst the said Draught of the intended Articles of Agreement, lay before the Defendant for his Perusal and Consideration, as aforesaid, several Alterations were
263 made therein by the Plaintiffs and their Agents, as well as by the Defendant and his Agents; and particularly that the Clause mentioned by the Plaintiffs Bill to have been inserted in the said Articles, pending the time the said Draught lay before the Defendant for his Consideration, as aforesaid, whereby it was provided, that in case a sufficient Quorum of the Commissioners to be named on either side, should not, from time to time, according to the Appointments and Adjournments to be made for that purpose, attend to proceed
264 in the marking and running out the Lines and Bounds aforesaid (for want thereof same could not be done within the time limited) then the said Agreement should be void; and, in such case, the Party or Parties whose Commissioners should make such Default should forfeit and pay unto the other Party or Parties, whose Commissioners should attend, upon Demand, the Sum of 5000 *l.* of lawful Money of *Great Britain*, as in the Bill is set forth, was looked upon as much for the Benefit and Advantage of the Plaintiffs, as of the
265 Defendant; nor can the Defendant certainly say, whether the same was first proposed by the Defendant or his Agents, or by the Plaintiffs, or some of their Agents, but, to the best of the Defendant's Memory and Belief, it was proposed by the Plaintiffs, or Mr. *Paris*, on their behalf.

Nor doth this Defendant believe the Plaintiffs would have complied with any Alterations proposed by the Defendant, or any of his Agents, if the same had not been apparently
266 for their own Advantage; and whatever Alterations were made, they were such as the Plaintiffs, and their Agents themselves, thought as reasonable and necessary, upon their being mentioned and proposed, as the Defendant, or his Agents.

Believes it to be true, that the several Alterations in the Plaintiffs Bill set forth to have been made in the Draught of the said intended Articles of Agreement, after the same had been delivered over to the Defendant and his Agents, as aforesaid, were agreed upon between the Plaintiffs and this Defendant, and made part of the Agreement that was afterwards executed.

267 Defendant doth not recollect any other Alterations that were made therein, while the said Draught lay before the Defendant and his Agents, than as in the said Bill are set forth.

Saith all the Alterations that were proposed to be made by the Defendant, or on his Behalf, in the said intended Agreement, being so very reasonable, were *readily* complied
268 with, and agreed to, by the Plaintiffs, and which the Defendant is not at all surprized at, since he hath discovered the great *Advantage* they had a design and view of gaining over the Defendant by the said Agreement, and the great *Disadvantage* that was likely to accrue therefrom to the Defendant, thro' the Error and Misrepresentation that was inserted in the said Map or Plan, upon the foot of which the said Agreement was founded; and which the Plaintiffs, as the Defendant believes, *knowingly* and *designedly*, took
269 advantage of, from the Defendant's Ignorance and Want of Knowledge of the several Places mentioned, in the said Map or Plan, and of the due and proper Situation and Distances thereof, without discovering the same to the Defendant.

For the Defendant saith, that, in the said Map or Plan, which was so made use of as a Guide to the Parties in making the said Agreement, there is a Place described and said to be Cape *Hinlopen*, in which Place there is *no such Cape*; and that the Place described or said by the said Map to be Cape *Cornelius*, is the true Cape *Hinlopen*, *originally* so called
270 by the *Dutch*, and so described in *their Maps*; the Signification of which Word *Hinlopen*, in the *Dutch* Language, is, *going in*, from the *Dutch* Word *Hinlopen*; and the same, in the Plaintiffs pretended Deeds of Feoffment, is called Cape *Hinlopen*, alias, the *Whore-Kilns*, which formerly were there, or thereabouts, and are so described in the said pretended Agreement; which was a great *Imposition* upon the Defendant and his Agents, and greatly misled them therein, in regard the due East and West Line that was agreed upon to be
271 drawn a-cross the Peninsula, was to begin, on the *East* Part of the Place, in the said Plan, or Map, called Cape *Hinlopen*, but ought to have been from that Place only which in the said Map is called Cape *Cornelius*.

Believes, that the said Draught of the said Articles of Agreement, was afterwards, about the Month of *May* 1732, as in the Bill, delivered over by the Defendant's Sollicitor, to
272 the Plaintiffs, in order to be prepared and made ready for Execution, and to be engrossed in the manner the Defendant and the Plaintiffs, and their several Agents, had agreed upon, as before set forth; and that six Parts thereof were accordingly, soon afterwards engrossed, and duly executed by the Defendant and the Plaintiffs *Thomas* and *Richard Penn*, on the 10th of *May* 1732, in the manner as set forth in the Bill.

273 And believes, that the said Articles of Agreement, so executed as aforesaid, bore Date, and contained such Recitals and particular Covenants, and were of such Purport and Effect, as in the Bill are particularly mentioned and set forth; but, for his greater Certainty, as to the Substance and Contents of the said original Articles, begs leave to refer thereto, when produced.

Hath

Hath heard, and believes it to be true, that, during the time the ſaid Draught of the ſaid Agreement was ſo under Conſideration, as aforeſaid, and before the ſame was executed,
274 the ſaid Map or Plan was carried to the ſaid *Senex* to be engraved, and was engraved by him, and that the Plaintiffs and the Defendant jointly paid the ſaid Mr. *Senex* for the ſame,
as in the Bill is mentioned; and that the ſaid Mr. *Senex was deſired*, and *did give his Opinion, in Writing*, upon the Propriety and Fitneſs of the Terms and Expreſſions made uſe
275 of in the ſaid Draught of the ſaid Agreement; but denies, that the ſame was ſo done by the ſaid Mr. *Senex* at the Deſire and Requeſt of the Defendant *only*, but as well at the De-
ſire and Requeſt of the Plaintiffs and their Agents, as of the Defendant.

Saith, that the ſaid *Senex* was then, and ſtill is, an entire Stranger to the Defendant, inſomuch that the Defendant doth not believe he ſhould know him if he was to ſee him;
and he was named only upon that occaſion as the moſt known and propereſt Perſon for that purpoſe, and not as any Acquaintance, Friend, or Servant of the Defendant's.

276 Believes, that, ſoon after the Execution of the ſaid Agreement, and as the Defendant believes, on the 12th Day of *May* 1732, the Plaintiffs and the Defendant did, ſeverally
and reſpectively, execute ſuch ſeveral Commiſſions, as in the Bill are for that purpoſe mentioned, authorizing Commiſſioners therein named, or any ſix, five, four, or three of them,
to mark, run, and lay out the Bounds ſo agreed upon.

277 Doth not certainly know, nor can ſet forth, whether the ſaid ſeveral Commiſſions (that is to ſay) that executed by the Defendant, and that ſo executed by the Plaintiffs, were,
or were not, *exactly alike*, and agreeable each to the other, in Form and Subſtance, tho' he hath been informed *and believes*, they were alike and agreeable, each to the other,
only changing the Name and Additions of the Perſons who granted the Powers and Authorities thereby given, and to whom the Powers and Authorities were granted, as in the ſaid
Bill are mentioned.

278 But, for his greater Certainty therein, and as to the Subſtance and Contents of the ſaid ſeveral Commiſſions, craves leave to refer to the ſame when produced.

Hath heard, and believes it to be true, that, ſome ſhort time after the Execution of the ſaid Articles of Agreement, and reſpective Commiſſions, and, for ought he knows to the
279 contrary, on the 20th Day of *May* 1733, as in the Bill, the Plaintiff *Thomas Penn* left this Kingdom and embarked for *Penſilvania*, where, he ſoon afterwards, as the Defendant
hath likewiſe heard and believes, arrived, and has continued there, to this time,

Believes, and hath heard that the ſaid *Thomas Penn* carried over with him thither the ſaid Commiſſion, executed on the Plaintiffs Part, and alſo one Part of the ſaid original Ar-
ticles of Agreement, executed as aforeſaid.

280 And the Defendant, by the ſame Ship in which the ſaid *Thomas Penn* went, ſent over to his Deputy-Governor at *Maryland* the ſaid Commiſſion, executed on the Defendant's
Part, and alſo, one Part of the ſaid original Articles of Agreement, executed as aforeſaid, and, ſome ſhort time after, ſailed himſelf to, and arrived at, his ſaid Province of *Mary-
land*, as in the Bill is mentioned.

Denies, that he endeavoured, or contrived, to take to himſelf on his own Part all, or any, the Benefit which under the ſaid Articles might poſſibly reſult to him, and, at the
281 ſame time, to deprive the Plaintiffs of all or any manner of Benefit which under the ſaid Articles could poſſibly reſult to them, as by the Bill is moſt untruly alledged.

Neither hath the Defendant, nor all, or any one, of his ſaid four Commiſſioners, by his Direction, Advice, Conſent, Privity or Knowledge uſed *all imaginable*, *or any*, Arts
and Methods, to fruſtrate and evade the ſaid Articles of Agreement, or to prevent the making out the Lines and Bounds purſuant to the ſame and the true meaning thereof, for
282 the Reaſons, or in the manner, as is pretended by the Bill.

Denies that he either knows, or ever heard, ſave from the Plaintiffs or their Agents, nor doth believe, that all of his ſaid Commiſſioners, or any of them, or their near Rela-
tions, as the Plaintiffs charge by their ſaid Bill, were poſſeſſed of Grants from the Defendant or his Officers under his Authority for large Tracts of Land in general, without
283 any Specification of the Place or Places where ſuch Tracts ſhould be ſituated or taken up, which Grants had not been located or ſeated, or that they, any, or either of them,
were in hopes to have laid out ſuch their Grants upon ſome improved or good Lands within the ſaid Province of *Penſilvania* and the ſaid three Lower Counties, any, or either
of them, but were prevented by the Tenor of the ſaid Articles of Agreement, as in and by the ſaid Bill is alledged.

284 Denies, that he was any ways prevailed upon or induced to fly from his ſaid Agreement, by the Advice, Perſuaſion, Entreaty or Deſire of the Defendant's ſaid Commiſſioners,
any, or either of them, or any other Perſons pretended to be poſſeſſed of like Grants, as pretended by the Bill, from the Defendant, or his Officers, of great, or any, Quantities
of Land in no certain or particular Place as by the Bill is ſuggeſted.

285 Denies, that his ſaid Commiſſioners, any, or either of them, ever writ, ſpoke, declared or mentioned to the Defendant, or to any of the Defendant's Officers, Agents or Ser-
vants who acquainted the Defendant thereof, that, in Caſe the Defendant would not perform, but would break, that Agreement, they themſelves would raiſe and pay the 5000 *l.*
Forfeit, or the greateſt, or ſome, or any Part thereof, or to any ſuch or the like Effect.

286 Denies, that he ever heard, ſave by the Bill, or that he believes, his ſaid Commiſſioners, any, or either of them, ever declared or gave out that they could not, if the Bound
Lines ſhould be run as by the ſaid Agreement was agreed, ſettle and locate their large Grants upon ſuch valuable Lands as they hoped to have done by Encroachment, in caſe
no Bounds had been agreed upon, or to any ſuch or the like Effect, as by the Bill is ſuggeſted.

287 Denies, that he, in order to oblige ſuch his Grantees, as by the Bill is alledged, or for any other Purpoſe to the Prejudice of the Plaintiffs, writ, ſpoke to, adviſed or conſulted
with many, or any, Perſons in *Maryland*, or elſe-where, how, or in what manner, or by what means, to avoid the running and marking out the Lines in the manner and within
the time agreed on, and yet, at the ſame time, to avoid incurring and paying the ſaid 5000 *l.* Forfeiture in the ſaid Articles provided, in any *ſuch* Manner as ſet out and pretended
288 in and by the Bill, nor was any ſuch Means or Method found out, or agreed upon, for that Purpoſe as is ſuggeſted by the Bill, nor was any ſuch pretended Method or Reſolution
adhered to by the Defendant and his ſaid Commiſſioners, or any, or either of them, or any others, as is pretended by the Bill, to prevent the ſaid Agreement being carried into
Execution, or any ſuch previous Meaſures concerted for that purpoſe *in the manner* as by the Bill is alledged.

289 Has heard, and believes it to be true, that it is, to this Time, and has long been, the uſual, common and conſtant Method in the ſaid Province of *Maryland*, as it has been in
other Provinces as he is informed and believes, to iſſue out Warrants to Perſons, of a certain Number of Acres of Land, uncultivated and not taken up, within the ſaid Province of
Maryland at large, without ſpecifying in what particular Spot, Pariſh, Precinct, Diviſion or County, the ſame do or ſhall lie or be ſituated, and to leave ſuch Grantees at liberty
290 to find out, and ſet down upon, and appropriate to themſelves, under ſuch *Maryland* Grants at large, ſo many Acres as therein ſpecified, in ſuch Places within the ſaid Province of
Maryland, not before taken up and appropriated, as they like beſt, as in the Bill is alledged.

Likewiſe believes, that *many* of ſuch *Maryland* Warrants may be, now, extant, for large Quantities of Land at large, within the ſaid Province of *Maryland*, which have not
been yet ſeated upon or appropriated.

291 Saith he believes moſt, if not all, of ſaid Warrants that have been iſſued, and under which no Lands have been taken up or appropriated, are now of no manner of Force, nor
can any Lands be *now*, as the Defendant believes, taken up or appropriated under ſuch Warrant, for that, for theſe fifteen Years paſt or upwards, it hath been the uſual Cuſtom
292 and Practice of the Defendant, and of his Deputies and Officers in his ſaid Province of *Maryland*, to annihilate and make void all Warrants for Lands, where Lands are not taken
up under the ſame within a limited Time, and Proclamations have, from Time to Time, been iſſued from the Land-Office in *Maryland*, declaring all ſuch Warrants void under
which the Lands were not taken up within the Time limited in ſuch Proclamation for that purpoſe, and, after the Expiration of Time limited by ſuch Proclamations, the ſaid
Warrants under which Lands were not taken up as aforeſaid, were not allowed to take place.

293 And the Reaſon for the Defendant and his ſaid Officers not ſuffering ſuch Warrants to ſtand out and be unappropriated is, for that it hath been, and ſtill is, the uſual Method and
Practice for the Perſons entitled to ſuch Warrants, upon their locating and taking up Lands under the ſame to have a Grant iſſue to them of ſuch Lands, and thereupon to pay a
Fine or Sum of Money to the Defendant as Lord Proprietor.

294 Saith that, for ought he knows to the contrary it may be true, tho' he never heard it any otherwiſe than from the Plaintiffs, and therefore hath no Reaſon to believe, nor doth he
believe, that ſeveral of ſuch unappropriated *Maryland* Warrants or Grants at large are *now* in the Hands of any of the Gentlemen who were the Defendant's Commiſſioners for
executing the ſaid Agreement of 1732, and ſeveral other conſiderable Men in the ſaid Province of *Maryland*, as by the Bill is alledged, neither doth the Defendant know, nor can
295 ſet forth, nor can form any Belief, what particular Grants, or of what particular Quantity of Land, or Number of Acres within *Maryland*, if any ſuch there are, are in the Hands
or Poſſeſſion of his ſaid Commiſſioners reſpectively, or either of them, or of any Perſon in *Maryland*, in regard ſuch Grants, when made, are aſſignable from one to another, and,
296 therefore, it is impoſſible the Defendant ſhould know, or can ſet forth, the particular Properties in ſuch Grants; but denies that he either knows, or believes, or has been any ways
informed, by any of ſuch *Maryland* Grantees, or others, that ſuch *Maryland* Grantees, or any, or either of them, did deſign or intend, by virtue of ſuch pretended *Maryland*
Grants, to ſet down upon and appropriate Lands which would, or which they apprehended would, by the Agreement in 1732 fall within the Plaintiffs pretended Bounds.

Neither doth this Defendant know or believe, or has ever been informed, that any Diſappointment, or expected Diſappointment, in appropriating ſuch Lands, was any Mo-
297 tive or Inducement to any of his ſaid Commiſſioners to the not compleating and executing the ſaid Agreement of 1732, as in the Bill is ſuggeſted; but the Reaſon of the ſaid
Agreement not being carried compleatly into Execution by the ſaid Commiſſioners, ſo far as related to them, was, as the Defendant hath heard and verily believes, entirely owing
298 to the Conduct of the Plaintiffs Commiſſioners, and to the *Difference in Opinion*, that had happened between them and the Defendant's Commiſſioners, with reſpect to the Me-
thod of running the Circle round *Newcaſtle*, and the Dimenſions of ſuch Circle, as herein afterwards is mentioned.

Hath heard, and believes it to be true, that the Meetings between the Plaintiffs Commiſſioners and the Defendant's ſaid Commiſſioners, for running the Lines purſuant to the
299 ſaid Agreement, were begun at *Newtown*, in *Maryland*, on the 6th Day of *October* 1732, and were continued to the 24th of *November* 1733, at the ſeveral Times and Places in
the Bill for that purpoſe ſet forth and mentioned, and, for ought the Defendant knows to the contrary, and as the Defendant believes, ſuch Meetings were continued, adjourned,
and held again, at the ſeveral Times and Places in the Bill for that purpoſe mentioned, but the Defendant, not being preſent at any of the ſaid Meetings himſelf, cannot certainly
300 ſet forth the ſeveral and particular Times and Places of the Meetings of the ſaid Commiſſioners of his own Knowledge, or in any other Manner than as he has herein before ſet
forth the ſame.

Denies that he either knows, or believes, or hath ever been informed, that all and every the Matters and Things in the Bill ſet forth, and mentioned to have been tranſacted and
paſſed by and between the ſaid Commiſſioners on both Sides, at their ſeveral Meetings as aforeſaid, or any of them, were ſo tranſacted and paſſed by and between the Defendant's
301 ſaid Commiſſioners, or any or either of them, in the Manner, or with the Views or Deſigns, as repreſented and alledged in and by the Bill, or with any other fraudulent Views or
Intent or Deſigns whatever, nor can the Defendant, either to his Knowledge, Information or Belief, ſet forth the ſeveral Matters that paſſed between his ſaid Commiſſioners and
the Plaintiffs at their ſeveral Meetings aforeſaid, in any other Manner than as he hath herein after ſet forth the ſame, the Defendant not being preſent at ſuch Meetings, nor know-
302 ing any thing thereof, otherwiſe than from what he hath heard and been informed from his ſaid Commiſſioners.

Saith that the Account he hath received from his ſaid Commiſſioners, of the ſeveral Matters and Tranſactions that were had between them and the Plaintiffs ſaid Commiſſioners at
their ſeveral Meetings aforeſaid, is as follows, that is to ſay,

The Defendant hath been informed, by his ſaid Commiſſioners, and which Information the Defendant believes to be true, that on the 6th and 7th Days of *October* 1732 a
303 Quorum of the Commiſſioners on each Side appointed for running the Bounds purſuant to the ſaid Agreement, met, and adjourned to *Newcaſtle* Town, in *Delaware*, on 30th of
ſame *October*.

At which Time and Place the Defendant hath been, in like manner, informed, and believes, a Quorum of the Commiſſioners met, on each Side, and the Defendant's Com-
miſſioners inſiſting to have the Charter of *Penſilvania*, and the Deed of Feoffment for *Newcaſtle* produced, the ſecond Article of the Agreement, directing the Commiſſioners to
304 run out the Circle mentioned in the ſaid Charter and Deed of Feoffment at 12 Miles Diſtance from *Newcaſtle*, the Plaintiffs Commiſſioners produced Copies or Exemplifications
thereof, and a Diſpute ariſing where they ſhould fix the Centre of the Circle? the ſaid Commiſſioners adjourned to the 1ſt of *February* then next.

And the Defendant hath been, in like manner, informed and believes, that on the 1ſt Day of *February* the ſaid Commiſſioners met according to their laſt Adjournment, and ad-
305 journed to the next Day, and that on the next Day being the 2d of *February*, the ſaid Commiſſioners met again on both Sides, when a Diſpute ariſing concerning the Dimenſions
of the Circle intended to be run about *Newcaſtle*, they adjourned to five in the Afternoon, at which time, at the Requeſt and Deſire of the Defendant's Commiſſioners, in order
to prevent any further Doubts or Diſputes, and that they might agree in Opinion touching the Dimenſions of the ſaid intended Circle, the Plaintiffs Commiſſioners were prevailed
upon to agree to conſult and hear Mathematicians on each Side.

306 And the Defendant hath, in like manner, been informed and believes, that the Commiſſioners accordingly met again in the Afternoon of the 2d of *February*, according to their
ſaid laſt-mentioned Adjournment, but the Plaintiffs Commiſſioners acquainting the Defendant's Commiſſioners that their principal Mathematician was ſo ill of the Gout that he
could not attend, and deſiring the Matter in diſpute, and Queſtion thereon, might be reduced into Writing, and that, if their ſaid Mathematician could not attend the next Day,
307 they would produce his Anſwer in Writing, the Defendant's Commiſſioners, to prevent any Delay or Loſs of Time, offered to go themſelves to the Plaintiffs ſaid Mathematician,
and to carry their Mathematicians with them, but which the Plaintiffs Commiſſioners, as the Defendant hath been informed and believes, would not comply with and refuſed, upon
which the Defendant's ſaid Commiſſioners reduced the Matter and Diſpute in queſtion into Writing, and the ſame was delivered to the Plaintiffs Commiſſioners, and then, the Com-
miſſioners on each Side agreed to adjourn till next Morning at ten at the ſame Place.

308 According to which laſt Adjournment the Defendant hath likewiſe been informed and believes, the Defendant's Commiſſioners attended, being on the 3d of *February* following,
and none of the Plaintiffs Commiſſioners attending, the Defendant's Commiſſioners, after having ſtayed a long time, ordered the Officer of the Court-houſe to go and acquaint the
Plaintiffs Commiſſioners that they the Defendant's ſaid Commiſſioners were there, and ready to go on Buſineſs, and to deſire the Plaintiffs Commiſſioners to come *immediately* and
join with them, it being long after the Hour appointed.

309 Some time after which, as the Defendant hath been informed and believes, two of the Plaintiffs Commiſſioners came, and, ſome time afterwards, a third of the Plaintiffs ſaid
Commiſſioners came, upon which the Defendant's Commiſſioners, after taking notice of their Delay and of the Time they had ſtayed, deſired, as there was then a Quorum on each

Side, they might then proceed to Buſineſs without further Delay, and, as a Reaſon and Inducement for the Plaintiffs Commiſſioners to comply therewith, the Defendant's ſaid Commiſſioners
310 acquainted them, as the Truth really was as the Defendant hath heard and believes, that the Defendant's ſaid Mathematicians were obliged to return to *Maryland* that Day, and the Defendant's Commiſſioners then produced and read the Anſwer of their Mathematicians, in Writing, to the Matter in Diſpute and Queſtion thereon as ſettled and reduced into Writing at their laſt Meeting, whereupon, and immediately after reading thereof, as the Defendant hath been informed and believes, one of the Plaintiffs Commiſſioners *withdrew himſelf*, by reaſon whereof there was not a ſufficient Quorum of the Plaintiffs Commiſſioners left to proceed on Buſineſs; upon which the Defendant's Commiſſioners, after ſtaying
311 a *conſiderable* time in hopes either that the Commiſſioner of the Plaintiffs would return who had withdrawn himſelf, or that ſome other would have come, there being then, as the Defendant hath been informed and believes, five of the Plaintiffs Commiſſioners there then in that Town, but none of them coming, as the Defendant's ſaid Commiſſioners were in Hopes and Expectation they would have done, the Defendant's Commiſſioners took notice thereof to the Plaintiffs Commiſſioners then preſent, and obſerved that it ſeemed very
312 ſtrange and ſurprizing to them that they did not meet to proceed according to the ſaid Adjournment, and that, if they delayed coming *any* longer, the Defendant's ſaid Commiſſioners would think themſelves obliged to quit the Place and proteſt againſt their Non-attendance; upon which the Plaintiffs Commiſſioners ſaid Mr. *Hamilton*, one of their Commiſſioners was ill of the Gout, and not able to attend; whereupon the Defendant's Commiſſioners agreed to go to Mr. *Hamilton*, if the Plaintiffs Commiſſioners deſired it, but
313 which as the Defendant hath been informed and believes, the Plaintiffs Commiſſioners did not agree to do; and the Defendant's Commiſſioners having waited *ſome time* longer with their Mathematicians, and none of the Plaintiffs Commiſſioners coming, or ſending any Meſſage, the Defendant's Commiſſioners again repeated to the ſaid two of the Plaintiffs Commiſſioners then preſent, the Neceſſity they the Defendant's ſaid Commiſſioners ſhould be under of leaving the Place, and proteſting againſt the Plaintiffs Commiſſioners for Non-attendance, if a ſufficient Number did not, in a ſhort time, come.

314 And the Defendant's ſaid Commiſſioners having ſtayed *ſome time* longer, to no manner of purpoſe, and it being then 35 Minutes after 12 o'Clock, and conſequently the Appointment for that Morning at an end, and the Defendant's ſaid Commiſſioners having heard that one of the Plaintiffs Commiſſioners had at the laſt Meeting declared the Affair to be tranſacted by them would not end there, but muſt be carried to *England*, from whence, and from their wilfully neglecting to attend at the ſaid Meeting, the Defendant's ſaid
315 Commiſſioners were fully ſatisfied and convinced, as they have ſince informed the Defendant, that the Plaintiffs Commiſſioners had no other Intent than to break off any further Proceedings towards executing the ſaid Agreement, and, therefore, the Defendant's ſaid Commiſſioners, before and in the Preſence of one of the Plaintiffs ſaid Commiſſioners (one of the two who were before preſent having, ſome time before, withdrawn himſelf) proteſted againſt the Non-attendance of the ſaid Plaintiffs ſaid Commiſſioners, reſerving all Benefit and Advantage which did or might accrue to the Defendant by reaſon thereof, and *then* left the Place and returned to *Maryland*.

316 Admits that he the Defendant was then in *Maryland*, and that, on the Return of his ſaid Commiſſioners to *Maryland*, and on the 15th of the ſame *February*, he the Defendant wrote a Letter, to the Governor of *Penſilvania* and one of the Plaintiffs Commiſſioners, ſetting forth the Attendance of the Defendant's own Commiſſioners, and the Non-attendance of the Plaintiffs, and that, were he the Defendant inclinable to make a ſtrict Uſe of this voluntary Failure on the Side and Part of the Plaintiffs Commiſſioners, he the De-
317 fendant might diſregard any further Notice or Execution of the ſaid Agreement, and entitle himſelf, immediately, to the Forfeiture thereby mentioned by the Plaintiffs, but that, being fortunately in Perſon there, he the Defendant could recede in ſome meaſure from the Advantage he might claim from the Non-attendance of the Plaintiffs ſaid Commiſſioners, which the Defendant's own Commiſſioners could not have done if the Defendant had not been there preſent himſelf, and ſignifying that the Defendant was willing, and did
318 thereby offer, and had given Directions to his own Commiſſioners, to meet the Plaintiffs Commiſſioners on the firſt *Monday* in *May* then next, at *Joppa* in *Maryland*, but with this Salvo of all Right, Benefit and Advantage he the Defendant might claim from the Non-attendance or Failure of the Plaintiffs Commiſſioners on the 3d of *February*, as herein before is mentioned and ſet forth.

Saith he hath been informed by his ſaid Commiſſioners, and believes it to be true, that after the Defendant had ſent ſuch Letter to the Governor of *Penſilvania* and one of the
319 Plaintiffs Commiſſioners as herein before is mentioned, that is to ſay, on the 28th Day of *March* 1733, the Plaintiffs Commiſſioners wrote a Letter to the Defendant's Commiſſioners, telling the Defendant's Commiſſioners that though they the Plaintiffs Commiſſioners did not punctually attend the ſaid 3d of *February*, according to their Adjournment, that yet, that Afternoon, they were ready to attend and had given the Defendant's Commiſſioners Notice thereof, and alſo ſerved the Defendant's ſaid Commiſſioners with a Notice to
320 meet the 5th of that *February*, but that the Defendant's Commiſſioners had refuſed to attend, inſiſting on the ſaid Failure in the Plaintiffs Commiſſioners; and by ſuch Letter the Plaintiffs Commiſſioners gave the Defendant's Commiſſioners Notice that they would be ready to meet at *Newcaſtle*, on the 16th Day of *April* then next; in Anſwer to which Letter of the Plaintiffs ſaid Commiſſioners, the Defendant ſaith he hath been informed by his ſaid Commiſſioners, and believes it to be true, that his Commiſſioners ſent to the Plain-
321 tiffs Commiſſioners a Notice, in Writing, reciting their former Default, and the Defendant's ſaid former Letter offering to renew their Meeting (under a Reſervation of his Benefit to the Forfeiture) and giving the Plaintiffs Commiſſioners Notice that they the Defendant's Commiſſioners would attend and meet them, at *Joppa*, the firſt *Monday* in *May*, agreeable to the Defendant's ſaid Offer to them in his ſaid Letter.

322 Hath been informed, and believes it to be true, that on the ſaid 7th, and alſo on the 8th and 9th of *May* 1733, the Commiſſioners, on both Sides, accordingly met, at *Joppa*, when the Defendant's Commiſſioners aſked the Plaintiffs Commiſſioners if they had procured the Opinion of any ſkilful Mathematicians on the Queſtion in Diſpute between them at their former Meeting? Upon which the Plaintiffs Commiſſioners inſiſted there was no manner of Occaſion, either to conſult with Mathematicians, or to regard the Charter of *Penſilvania*, or Deed of Feoffment of *Newcaſtle*, in relation thereto, but only to purſue the Directions of the ſecond Article of the Agreement; but the Defendant's Commiſſioners
323 then inſiſted, as they had before at their former Meetings, that the ſaid ſecond Article of the Agreement had plain Reference to the ſaid Charter and Deed of Feoffment, and that they muſt inſiſt on explaining the Nature of the Circle to be drawn agreeable to ſuch Reference, and the Opinion of their Mathematicians, unleſs the Plaintiffs Commiſſioners would ſatisfy them of the Error of ſuch Opinion with that of other Mathematicians, which the Plaintiffs Commiſſioners refuſed to do, and after a very long Debate, as the Defendant hath
324 been informed and believes, it was agreed between the Commiſſioners, on both ſides, to meet at Mr. *Norris*'s, in *Philadelphia*, on the 21ſt Day of *May*; with this Proviſo that, if the Defendant's Commiſſioners could not, with Conveniency, return from *Burlington*, where they were going, ſo as to meet on that Day, then, the Plaintiffs Commiſſioners agreed, on Notice given them by the Defendant's Commiſſioners of a Day to meet, at the ſame Place, before their return to *Maryland*, they would meet them, at ſuch Time and
325 Place, accordingly, and that if, after ſuch Meeting and Stay of the Defendant's Commiſſioners in *Philadelphia* with the Plaintiffs Commiſſioners one Day, they could not readily agree upon an Adjournment, that then, the Defendant's Commiſſioners ſhould not be longer detained from returning to their reſpective Homes, they the Defendant's Commiſſioners accepting a Notice, in Writing, to be delivered to any of one them, to meet the Plaintiffs, at Mr. *Paterſon*'s, in *Newcaſtle* County, the 18th Day of *June* then next.

326 Hath, in like manner, been informed and believes it to be true, that the Defendant's Commiſſioners not returning from *Burlington* ſo as to meet on the 21ſt of *May*, they the Defendant's Commiſſioners did, according to their ſaid laſt mentioned Agreement, on the 25th of *May* ſend a Notice in Writing, to the Plaintiffs Commiſſioners, to meet them, at Mr. *Norris*'s, on the next Day, being the 26th of *May*, at 10 of the Clock in the Forenoon.

327 Hath likewiſe heard, and believes, that, on the ſaid 26th of *May*, the ſaid Commiſſioners, on both ſides, accordingly met, and, in regard the Defendant's ſpeedy Departure for *England* rendered it very inconvenient for the Defendant's Commiſſioners to meet in *June*, as was before agreed on, and the Heats of the Months of *June* and *July* being ſuch as would render the attending running the Lines very unſafe, the Commiſſioners, on each Side, agreed to meet, at the Town of *Newcaſtle*, on the 3d of *September* then next, in
328 order to the running and marking out the Lines according to the ſaid Articles of Agreement.

Hath been informed, and believes it to be true, that, on the ſaid 3d of *September* 1733, the ſaid Commiſſioners, on both Sides, accordingly met, at *Newcaſtle*, and continued together that Day and alſo the three next Days following; all which Days, as the Defendant hath been informed and believes, were ſpent in debating *what were the Dimenſions of*
329 *the Circle intended to be run?* the Defendant's Commiſſioners inſiſting, agreeable to the Opinion of *their Mathematicians*, that the Circle to be run and marked out was *the Circle* mentioned and deſcribed in *the Deed* of Bargain and Feoffment of *Newcaſtle* and no other, and which they were informed and convinced, (as they have informed the Defendant and as the Defendant believes) by their Mathematician was ſuch a Circle whoſe *Circumference or Periphery* is 12 Miles, and whoſe *Diameter* is *ſomewhat leſs than four*
330 *Miles*, whereas the Plaintiffs Commiſſioners inſiſted the Circle to be run muſt be a Circle to be drawn *at the Diſtance* of 12 Miles *from Newcaſtle*, and that ſuch a Circle whoſe Radius was 12 Miles was the *only* Circle they could run, and the Plaintiffs Commiſſioners inſiſted to reject all Aſſiſtance from Mathematicians, as needleſs and unneceſſary, and the Defendant's Commiſſioners, and the Plaintiffs thus differing, in their Sentiments, about the Dimenſions of the Circle directed to be run by the ſecond Article of the ſaid Agree-
331 ment, the Commiſſioners, on both Sides, agreed to and did adjourn for further Conſideration of the Premiſſes in Queſtion, to the 14th Day of the then next *November*.

Hath in like manner been informed by his ſaid Commiſſioners, and believes it to be true, that, on the 14th Day of *November* 1733, the ſaid Commiſſioners, on each Side, met according to their ſaid laſt Adjournment, and the *ſame Difference* in Opinion ſtill continuing between them, that and the two next Days, and they not being able to agree in the
332 Dimenſions *of the* Circle to be run, the Defendant's ſaid Commiſſioners, on the 16th Day of the ſame *November*, finding that nothing could be done, with any effect, with reſpect to the running the ſaid intended Circle, propoſed to the Plaintiffs Commiſſioners to go to Cape *Hinlopen*, in order to proceed as far as they could towards the Execution of the
333 ſaid Agreement, and in running the Eaſt and Weſt Line directed by the ſaid third Article to be run from thence; but which, the Defendant hath been informed by his ſaid Commiſſioners and believes, the Plaintiffs Commiſſioners refuſed to agree to, till the running the Circle directed by the ſaid Articles of Agreement was firſt done and compleated.

Hath been informed, and believes, the ſaid Commiſſioners, on each Side, continued ſitting till the 24th Day of the ſame *November*, and neither receding, but each perſiſting, in their Opinions, and the Plaintiffs Commiſſioners refuſing to take the Advice and Aſſiſtance of the Mathematicians for their Guide and better Information as the Defendant's
334 Commiſſioners frequently offered them and were deſirous of doing, the Defendant's Commiſſioners were obliged, ſeeing nothing could effectually be done, at laſt to conſent with the Plaintiffs Commiſſioners to break up their Meeting without any further Adjournment, and accordingly, as the Defendant hath been informed and believes, on the ſaid 24th Day of the ſaid *November*, an Inſtrument was drawn up, which was in the following Words *(viz.)*

335 Whereas by Articles of Agreement, made the 10th Day of *May* 1732, between the Right Honourable *Charles* Lord *Baltimore*, Proprietor of the Province of *Maryland*, on the one Part, and the Honourable *John Penn*, *Thomas Penn*, and *Richard Penn* Eſqrs. Proprietors of the Province of *Penſilvania* and Counties of *Newcaſtle*, *Kent* and *Suſſex* upon *Delaware*, on the other Part, it was agreed and concluded that a certain Circle, in the ſaid Articles mentioned, or ſo much thereof as ſhould be requiſite, and alſo that a due
336 Eaſt and Weſt Line, ſhould be drawn, a-croſs the Peninſula mentioned in the ſaid Articles or ſo much thereof as ſhould be requiſite; ſuch Eaſt and Weſt Line to begin, at Cape *Hinlopen* in the ſaid Articles mentioned, and that, from the Weſtern Point or End of the ſaid Eaſt and Weſt Line, which Weſtern Point or End ſhall be juſt half-way a-croſs the ſaid Peninſula, a ſtrait Line ſhall run Northward up the ſaid Peninſula (and above the ſaid Peninſula, if it require it) till it ſhall ſo touch the Weſtern Part or Periphery of the
337 ſaid Circle as to make a Tangent thereto, *&c.* and divers other Lines, in the ſaid Articles alſo mentioned, ſhould *be* run, marked and laid out before the 25th Day of *December*, in the Year 1733, by certain Commiſſioners, to be reſpectively appointed for the ſaid purpoſe. And whereas the ſaid Lord Proprietor of *Maryland*, on his Part, by his Commiſſion, dated the 12th Day of the ſaid Month of *May*, made in purſuance of the ſaid Articles of Agreement, and duly executed, did appoint the Honourable *Samuel Ogle* Eſq;
338 Lieutenant-Governor, the Honourable *Charles Calvert* Eſq; *Philemon Lloyd*, *Michael Howard*, *Richard Bennet*, *Benjamin Taſker*, and *Matthew Tylghman Ward* Eſqs; or any ſix, five, four or three of them, to be his Commiſſioners, for the Purpoſes in the ſaid Articles mentioned.

And whereas the ſaid Proprietors of *Penſilvania* and ſaid Counties, by their Commiſſion, dated the ſame 12th Day of *May*, made in purſuance of the ſaid Articles of Agreement,
339 and duly executed, did, in like manner, appoint the Honourable *Patrick Gordon* Eſq; Governor, *Iſaac Norris*, *Samuel Preſton*, *James Logan* and *Andrew Hamilton* Eſqrs. and *James Steele* and *Robert Charles* Gent. or any ſix, five, four or three of them, to be their Commiſſioners, for the Purpoſes in the ſaid Articles mentioned.

And whereas ſix of the ſaid Commiſſioners on the Part of *Maryland*, *viz.* the Governor of *Maryland*, *Charles Calvert*, *Philemon Lloyd*, *Michael Howard*, *Richard Bennet* and *Matthew Tylghman Lloyd* Eſqs. and ſix on the Part of *Penſilvania*, *viz.* the Governor of *Penſilvania*, *Iſaac Norris*, *Samuel Preſton*, and *Andrew Hamilton* Eſqs; and *James*
340 *Steele* and *Robert Charles* Gent. did, on the 6th Day of *October* 1732, meet, at *Newtown* in the County of *Kent*, in *Maryland*, and from thence adjourned to the 30th Day of the ſame Month, to meet at *Newcaſtle*, in order then to proceed to mark out the Circle in the ſaid Agreement mentioned, and accordingly ſix of the ſaid Commiſſioners on the
341 Part of *Maryland*, and all the Commiſſioners on the Part of *Penſilvania*, met at *Newcaſtle*, on the ſaid 30th of *October*, and have there had divers Conferences, for ſome Days, about the Execution of the ſaid Articles adjourned to a further Day.

And whereas, becauſe of the Indiſpoſition of the ſaid *Richard Bennet*, one of the Commiſſioners for *Maryland*, the Lord Proprietor of the ſaid Province and chief Governor thereof, then executing in Perſon the Powers of Government in *Maryland*, found it neceſſary to appoint *Edmund Jennings* Eſq; to be one of his Commiſſioners in the Place of the
342 ſaid *Richard Bennet*, for the Purpoſes in the ſaid Articles mentioned, purſuant to Powers reſerved to each Governor for ſuch Purpoſes; alſo, by reaſon of the Death of the ſaid *Philemon Lloyd* Eſq; and of the Indiſpoſition of the ſaid *Charles Calvert* Eſq; the Honourable *Samuel Ogle* Eſq; Lieutenant-Governor of the ſaid Province of *Maryland*, after the Departure of the Lord *Baltimore* out of his ſaid Province, in purſuance of the Powers aforeſaid in the ſaid Articles or Commiſſion made for that Purpoſe, found it neceſſary to
343 appoint others, and accordingly by his Commiſſion, duly executed, dated the , did appoint *John Roſs* Eſq; in the Place and Stead of the ſaid *Charles Calvert*, and by his Commiſſion, dated the , duly executed, did, in like manner, appoint *James Harris* Eſq; in the Place and Stead of the ſaid *Philemon Lloyd*, to be Commiſſioners for the Purpoſes aforeſaid.

And whereas, after the aforeſaid Meeting at *Newcaſtle*, divers Appointments and Adjournments having been made, and ſundry Propoſitions and Debates, at their ſeveral Meet-
344 ings, paſt, five of the ſaid Commiſſioners on the Part of *Maryland*, *viz.* the Honourable *Samuel Ogle* Eſq; *Benjamin Taſker*, *Edmund Jennings* Eſqs; *John Roſs* and *James Harris* Eſqs; and five Commiſſioners on the Part of *Penſilvania*, *viz.* *Iſaac Norris*, *Samuel Preſton*, *James Logan* and *Andrew Hamilton* Eſqs; and *James Steele* Gent. pur-
ſuant to their laſt preceding Adjournments, met, at the Town of *Newcaſtle*, on the 14th Day of this Inſtant *November* 1733, where, reſuming their former Debates, and making
345 divers Propoſitions to each other, on both Sides, from the ſaid 14th to this 24th Day of the ſaid *November*, each Side continued to perſiſt in their former Opinions, that is, the Commiſſioners on the Part of *Penſilvania* inſiſted, as they always had done, on running and marking out a Circle, or ſo much thereof as ſhould be requiſite, at the Diſtance of 12 *Engliſh* Statute Miles from the Town of *Newcaſtle*, as in the ſecond Article of the Agreement is directed, as the only Circle they conceived themſelves impowered to run; and

the

346 the Commiſſioners for *Maryland*, on their Part, inſiſted, as at former Meetings they had done, upon running a Circle, or ſo much thereof as ſhould be requiſite, whoſe Peri-
phery or Circumference is 12 Miles, as the only Circle meant in the Deed of Bargain and Sale and Deed of Feoffment for *Newcaſtle*, and as the only Circle, intended by the Pro-
prietors in the ſaid Articles, which Circle the Commiſſioners of *Maryland* conceived themſelves only impowered to run.

And that, under this Difference of Judgment (the Commiſſioners of *Penſilvania* having refuſed to proceed to Cape *Hinlopen*, in order to fix the Cape, and run the Eaſt and
347 Weſt Line, becauſe they ſay, for the Reaſons by them aſſigned, it could be to no manner of purpoſe) the Commiſſioners of *Maryland* were of Opinion that no other Conſequence
can ariſe than, either, the Commiſſioners ſhould continue at *Newcaſtle* until the ſaid 25th of *December* next, without running the ſaid Circle about *Newcaſtle*, or, depart from
Newcaſtle without further Adjournment; and as the laſt 11 Days, ſince the 14th of this Inſtant incluſive, have paſſed in Debates that have not, in the leaſt, tended to any nearer
348 Agreement between the Commiſſioners, and the Time, limited for executing the ſaid Articles, is now ſo near expiring that, even with the utmoſt Induſtry and Application, it
would, ſcarce, by any means, be found practicable to run and mark out and fix all the ſeveral Lines in the Articles agreed and required to be done.

Wherefore, upon the whole, the Commiſſioners, on both Sides, under theſe Circumſtances, agree that it cannot Anſwer any of the Purpoſes intended by the ſaid Articles to con-
349 tinue longer together, and, therefore, think it proper to depart without further Adjournment, and leave the Conduct of the Commiſſioners, on both Sides, and their Endeavours
uſed towards the Execution of the aforeſaid Articles of Agreement to the Juſtice and Wiſdom of their Superiors. *Samuel Ogle, Edmund Jennings, Benjamin Taſker, John Roſs.*
—— *Iſaac Norris, James Logan, Samuel Preſton, A. Hamilton.* ———— Done at *Newcaſtle, Nov.* 24. *Anno Domini* 1733. In Preſence of *David French, Joſ. Wood, S.*
Bourn.

350 Which Inſtrument, as the Defendant hath been informed and believes, was jointly ſigned by the Commiſſioners on both Sides, and accordingly, the 25th of *December* 1733 came
without any thing firſt being done towards running the ſaid Line or Circles or performing the ſaid Agreement.

Saith that he cannot, either as to his Knowledge, Information or Belief, in any other manner, ſet forth the ſeveral Matters and Tranſactions that paſſed and were had be-
351 tween his Commiſſioners and the Plaintiffs Commiſſioners, than as herein before is particularly mentioned and ſet forth, ſave and except that he hath received, from his own Com-
miſſioners, ſeveral Papers, purporting to contain an Account of what paſſed between the Defendant's Commiſſioners and the Plaintiffs Commiſſioners at ſeveral of their ſaid Meet-
ings, being Copies, as the Defendant is informed and believes, of ſeveral Papers that were delivered by the ſaid Commiſſioners on each ſide to each other at ſeveral of their Meet-
352 ings, Copies of all which Papers the Defendant, for the Plaintiffs further Satisfaction, hath ſet forth by way of *Schedule* to this his Anſwer, and prays that the ſame may be taken
as part thereof.

Saith he arrived in *New-England* on the 3d Day of *September* 1732, from whence he proceeded directly to *Maryland*, and got there on the 14th Day of *November* following.

353 Denies he knows, or believes, or ever heard, that his Commiſſioners made all or any of the Cavils or Objections *in the manner* as by the Bill is ſet forth, or that they acted
in any other manner than as *herein* before is mentioned, and denies that he was knowing of, or privy to, all, or any, pretended Deſigns of his ſaid Commiſſioners, or to what
they had done, or intended to do, till ſuch time as they gave or ſent this Defendant an Account of what had paſſed at their ſaid Meetings.

354 Denies that he previouſly adviſed, conſented to, directed, approved, or was acquainted with, any of his ſaid Commiſſioners Doubts, Scruples and Objections, made by his ſaid
Commiſſioners at their Meetings as before ſet forth, or knew any thing, or was any ways apprized thereof, till after the ſame had really and in fact happened, until he received an
Account thereof from his ſaid Commiſſioners, and of what had paſſed at their ſaid Meetings in the manner before ſet forth.

355 Denies that he knows, or in his Conſcience believes, or has ever been informed, that it was the Intention and Reſolution of all, or any, or either of his ſaid Commiſſioners,
to defeat and prevent the running out the Lines aforeſaid, agreed upon by the ſaid Articles, *in the manner* as by the Bill is ſet forth.

And denies that his ſaid Commiſſioners, or any or either of them, *after the Execution* of the ſaid engroſs'd Articles of the 10th of *May* 1732, in any manner endeavoured to
356 perſuade the Defendant not to compleat and perform the ſame, or to his Knowledge or Belief acted in any other manner than as herein before is particularly mentioned and ſet forth.

Denies that he was, by any means whatſoever, brought, or induced to wiſh, or deſire, or intend, that the ſaid Agreement might, or ſhould not, be carried into Execution, *till*
ſuch times as he was clearly convinced he had been greatly impoſed upon therein by the Plaintiffs.

357 Denies that he ever, until after he had diſcovered the Impoſition put upon him, and which he diſcovered *during his ſo being in* Maryland, conſulted, converſed, or adviſed
with, any Perſon whatſoever, how the Execution of the ſaid Agreement of *May* 1732 might be avoided or evaded, as pretended and ſet forth in and by the Bill; but, after ſuch
Impoſition diſcovered, and after his Arrival in *England* from *Maryland*, he admits he took the Opinion of ſeveral Counſel thereon.

358 Neither knows, nor hath heard, of any other Objections or Difficulties that were ſtarted by his Commiſſioners, with reſpect to the ſeveral Matters under their Conſideration,
than as herein before is ſet forth; and denies that ſuch Objections were made, or inſiſted on, with or by his Privity or Direction; nor had he any Knowledge or Information
thereof, till he received an Account thereof from his Commiſſioners in the manner before-mentioned.

359 Saith he does approve of the ſaid ſeveral Proceedings of his ſaid Commiſſioners, in the manner as herein before is ſet forth; the ſame being conſiſtent with, and agreeable to his
own real Opinion, and the Juſtice of the Caſe, as he verily believes.

Saith that, from the Information he hath received, and the Repreſentation that hath been made to him of his Commiſſioners Behaviour and Proceeding, he in his Conſcience
360 believes that his ſaid Commiſſioners acted, *in all things*, with that Candour, Fairneſs and Diſpatch, which he himſelf intended and agreed they ſhould do at the time when he
executed the ſaid Agreement on the 10th of *May* 1732.

Saith that *in regard he was over-reached by the Plaintiffs* in the ſaid Agreement, *and greatly deceived and miſled therein by the Map or Plan upon which the ſaid Agreement* was
361 founded, he is not deſirous that the ſaid Agreement of the 10th of *May* 1732 ſhould be executed and fulfilled, but, on the contrary, hopes, *for the Reaſons before-mentioned*, the
ſame ſhall not be carried into Execution. And in caſe this Court ſhould be of Opinion, that the ſaid Agreement ought to be carried into Execution, in that Caſe, is adviſed and
inſiſts that *the Circle*, thereby agreed to be run about the Town of *Newcaſtle, ought to be a Circle whoſe Periphery only is* 12 *Miles*, and *whoſe Semidiameter is two Miles*; *and not*
a Circle whoſe Semidiameter is 12 *Miles, as the Plaintiffs inſiſt upon.*

362 Denies that, at any of the ſeveral times of his producing and reading his ſaid Notes or Propoſals, pending the ſaid Treaty with the Plaintiffs, and before the ſaid Agreement
with them, or at the time of executing the ſaid Agreement with them, on the 10th of *May* 1732, he meant, or intended, that the ſaid Circle, agreed upon, ſhould be a Circle
whoſe Semidiameter was to be 12 Miles, as by the Bill is pretended.

363 Believes the Commiſſioners, on each Side, in caſe no ſuch Difference in Judgment had aroſe between them as is before ſet forth, might, within the Space of four Weeks, at a
proper Seaſon of the Year, have mark'd and run out the Circle, and Lines, mentioned in the ſaid Agreement of the 10th of *May* 1732.

365 Admits he did cauſe to be preſented, to his preſent Majeſty, a Petition in his own Name, on the 8th of *Auguſt* 1734, as in the Bill, praying a Confirmatory Grant of ſuch
Parts of the ſaid Peninſula as are contained within the Limits of his ſaid Charter, notwithſtanding the words *Hactenus inculta* inſerted in the recital of the ſaid Charter.

366 But denies that he either knows, or believes, that any falſities were alledged or ſet forth in ſuch his Petition to his Majeſty, or that any Matters or Things that were neceſſary,
on his Part, to be laid before his Majeſty were omitted, as is pretended by the Bill.

Saith that the Reaſon why he did not mention in his ſaid Petition neither the Plaintiffs, nor their Father, nor the ſaid Province of *Penſilvania*, nor the ſaid three Lower
367 Counties by Name, nor ſet forth any thing relating to the ſaid Agreement of *May* 1732, was, becauſe, as he was adviſed, ſuch Matters were no ways material or pertinent to be
ſet forth in ſuch his Petition to his Majeſty as aforeſaid.

And the Reaſon why he inſerted in his ſaid Petition that there was ſuch a Report or Order in Council of the 4th of *April* 1638, relating to *William Clayborne* and the Iſle of
368 *Kent*, was, becauſe ſuch Order appears entered in the Books *as of Record* at the Board of Trade, and becauſe he, and his Agents concerned for him, thought it was neceſſary to be
ſtated in his Petition, and pertinent to the Prayer thereof.

And denies that he either knows, or believes, that any thing was purpoſely omitted, or concealed, in his ſaid Petition, either with reſpect to the Report of the Committee for
Trade and Foreign Plantations in 1685, as by the Bill is pretended, or in any other reſpect whatſoever.

369 Saith that, for ought he knows to the contrary, the Plaintiff *John Penn* might be gone for *America*, at the Time the Defendant preſented his ſaid laſt mentioned Petition to his
Majeſty, but the Defendant did not know the ſame, his going from *England* being in a ſecret and private Manner; beſides, one of the Plaintiffs was then, and ſtill is, in
England; but denies that he purpoſed, or expected, any advantage whatſoever to himſelf, by the Abſence of the Plaintiffs *John* and *Thomas Penn*.

370 Admits he did preſent the ſaid laſt mentioned Petition to his Majeſty in order to obtain a Confirmatory Grant of the ſaid three Lower Counties for himſelf, and for his own Uſe,
Benefit and Advantage, and not as a Truſtee for the Plaintiffs, the Defendant apprehending the Plaintiffs had no manner of Right or Title thereto, and that the ſame were clearly
comprized within the Limits of his ſaid Original Charter of *Maryland*.

371 Denies that he either knows, or believes, or knew, or did believe, at the Time of his preſenting his ſaid Petition to his Majeſty, that his Majeſty, upon a fair and full Repre-
ſentation of the whole Caſe, as is pretended by the Bill, would not grant it; or that he the Defendant, for that, or any other Reaſon, concealed or omitted any Matter or
Thing whatſoever in his ſaid Petition, or which the Defendant thought neceſſary or material to be ſet forth.

Saith the Reaſon why he did not take any Notice, in his ſaid Petition to his Majeſty, of any Improvements pretended by the Plaintiffs to have been made in the ſaid Three
372 Lower Counties, or the Plaintiffs pretended Poſſeſſion of them, was, becauſe he did not know, nor was privy, nor does he now know, of any Improvements that had been made
by the Plaintiffs thereon; and for that ſuch a limited Poſſeſſion as the Plaintiffs have had in the ſaid three Lower Counties was, in the Defendant's Apprehenſion, no manner of
373 Evidence at all of their Right or Title thereto, or their Property therein, and therefore the Defendant did not think it any ways material or neceſſary to be ſtated; nor doth he
know or believe that it was any ways neceſſary, material or proper, to have ſtated in his ſaid Petition any of the Facts, or Matters, in the Bill, pretended, and untruly alledged,
to have been deſignedly or otherwiſe omitted or concealed therein; nor was the ſame, to the Knowledge or Belief of the Defendant, drawn or framed with any ſuch Deſign or View
374 as is ſuggeſted by the Bill; on the contrary ſaith, he aſſuredly believes, if his Agents, or the Perſons concerned for him in ſolliciting the ſame, had thought any of the Facts or
Matters, by the Plaintiffs pretended to have been omitted therein, were neceſſary or proper Facts to have been ſtated therein, or that their not ſtating the ſame could with any
colour of Reaſon have been imputed as a Deſign or Intention in them, or in the Defendant, of impoſing upon their Lordſhips by that means, or miſguiding their Lordſhips
Judgment, as the Plaintiffs ridiculouſly inſinuate, they would certainly, and of their own accord, have ſtated and repreſented the ſame fully to their Lordſhips.

375 Denies that he took, or intended to take, any Advantage of the Abſence of the Plaintiff *John Penn*, at the Time of his preſenting ſuch his laſt mentioned Petition to his Majeſty;
nor did the Defendant, with any ſuch View, or deſignedly, take that Opportunity of preſenting it rather than before, as is inſinuated by the Bill; but ſaith he cauſed the ſame
376 to be preſented as ſoon as poſſibly he could after his Return to *England* from *Maryland*, without any regard to the Abſence or Preſence of the ſaid Plaintiff *John Penn*. And ſaith
that the ſaid Plaintiff *John Penn*'s Departure was unknown, and unheard of, by the Defendant, till long after he was gone; and the Defendant was ſo far from being privy or
acquainted with his Departure, that the Defendant hath been credibly informed it was very ſudden and private, even in the City of *London*, where he reſided.

Defendant ſaith that ſuch his Application to his Majeſty, by Petition as aforeſaid, was far from being unknown, unforeſeen, or a Surprize upon the Plaintiffs, as by their Bill is
377 ſuggeſted, for that the Defendant himſelf perſonally acquainted Mr. *Paris*, the Plaintiffs Agent and Sollicitor, with his Intention of applying to his Majeſty, as he afterwards did
by his Petition in the manner before-mentioned, before the ſame was preſented.

Saith that the Reaſon why he apprehends it was neceſſary and material in his ſaid Petition to his Majeſty, as herein before is mentioned, to ſet forth and take Notice of the
378 Report or Order in Council, of the 4th of *April* 1638, relating to the Iſle of *Kent*, was, for that the ſaid Iſle of *Kent*, which was the Subject-Matter and Occaſion of that Order,
lies on the Weſtern Side of the ſaid Peninſula, and is only divided therefrom in one Part, by a narrow Run of Water, and in regard that Order directs no Grant ſhould be made of
379 any Lands within the Limits of the ſaid *Maryland* Charter, although it was then ſuggeſted that the Iſle of *Kent* was inhabited, the Defendant was, therefore, adviſed it was perti-
nent to his ſaid Petition to his Majeſty, and proper to be inſerted therein, which only prayed for a Confirmation, from the Crown, of the Lands *within the Limits* of the ſaid
Maryland Charter; their Lordſhips Opinion appearing, upon the Face of the ſaid Order, to have been that the ſaid Iſle of *Kent* was comprized within thoſe Limits.

380 Saith he did not apprehend, nor was he adviſed that it was any ways neceſſary, or pertinent to the Subject-Matter or Prayer, of his ſaid Petition to his Majeſty, to ſet forth, or
take any notice of, the Plaintiffs pretended Poſſeſſion of the ſaid three Lower Counties, in regard ſuch a Poſſeſſion as the Plaintiffs have had and enjoyed therein would be no man-
ner of Evidence, nor is any Evidence, as he humbly inſiſts and is adviſed, of any ſuch Right or Property in the ſaid three Lower Counties as the Plaintiffs ſet up or pretend: Nor
381 could it any ways ſhew that the Plaintiffs had any manner of Right or Title thereto whatſoever: Nor have the Plaintiffs, as they ſtate it themſelves by their Bill, received any Quit-
Rents from any of the Inhabitants of the ſaid three Lower Counties under ſuch their pretended Poſſeſſion; which, as the Defendant is adviſed and inſiſts, ſhews that the Inhabitants
of the ſaid three Lower Counties never looked upon, or acknowledged, the Plaintiffs, as the Defendant humbly conceives and is adviſed, as their Proprietor, nor eſteemed the ſaid
382 three Lower Counties, or any Part of them, as a Part of, or belonging to, the Plaintiffs ſaid Province of *Penſilvania*, or to be comprized within the Limits of their *Penſilvania*
Charter; but, on the contrary, to be diſtinct therefrom, and to belong to, and be Part of, the Defendants ſaid Province of *Maryland*, or, otherwiſe, to be the Right of the
Crown, and no ways to be the Right of, or belong to, the Plaintiffs.

383 Saith he did not, in his ſaid Petition to his Majeſty, ſtate the Agreement of 1732 between the Defendant and the Plaintiffs; and the Reaſon he did not was, becauſe, he was
adviſed and apprehended, and ſtill humbly apprehends, the ſame was no ways neceſſary or material to be ſtated: The ſaid Agreement, as he is adviſed and inſiſts, *being lapſed in*
point of Time, and void, by a particular Clauſe in the ſaid Agreement, as not being carried into Execution within the Time preſcribed by the ſaid Articles for that purpoſe.

384 Saith that his ſaid laſt Petition to his Majeſty being, by his Majeſty's Order in Council of the ſaid 8th of *Auguſt* 1734, referred to the Lords Commiſſioners for Trade and Plantations,
to conſider the ſame, and to Report their Opinion thereon, the ſame was, afterwards, on the 28th of the ſame Month, laid before that Honourable Board; and the ſaid Lords
385 Commiſſioners of Trade and Plantations, on the very next Day, being the 29th of the ſame *Auguſt*, were pleaſed, as the Defendant has heard and believes, to give Notice of the

Defendant's

Defendant's ſaid Petition being ſo laid before them for their Conſideration, to Mr. *Paris*, the Plaintiffs Agent and Sollicitor, by a Letter, from their Secretary, of that Date; and likewiſe acquainted the ſaid Mr. *Paris*, at the ſame Time, that they had appointed the 18th of the next Month, being *September* 1734, to take the Defendant's ſaid Petition into their Conſideration.

386 And ſaith that their Lordſhips were, afterwards, pleaſed to prolong the Day for taking the Defendant's ſaid Petition into their Conſideration, to the 16th Day of the Month of *October* 1734, and of which Mr. *Paris* the Plaintiffs Agent had due Notice.

And ſaith that, on the ſaid 16th of *October* 1734, the Day appointed by the Board of Trade for taking his ſaid Petition into their Conſideration, the ſaid Mr. *Paris* appeared
387 before the ſaid Lords of Trade and Plantations, as Agent for the Plaintiffs, in Oppoſition to the Defendant's ſaid Petition, and, as the Defendant has heard and believes, prayed further Time of their Lordſhips, alledging that he had not an Opportunity of preparing his Briefs for Council, or peruſing the neceſſary Papers for that purpoſe; and, at the ſame Time, acquainted their Lordſhips that he had, long before, and immediately upon receiving their Lordſhips Notice by their Secretary, ſent the Plaintiffs, his Clients, an Account of the Defendant's ſaid Application to his Majeſty, and which had been referred to their Lordſhips for their Conſideration; but that, as the ſaid Mr. *Paris* was thoroughly acquainted
388 with the whole Affair, he ſhould not wait any Anſwer from *Philadelphia*, but only deſired a Fortnight's time for the Purpoſe before-mentioned; upon which their Lordſhips, in the Preſence of the ſaid Mr. *Paris*, and at his Requeſt as aforeſaid, were pleaſed to appoint the *Monday* following, for *another* Attendance on the ſaid Petition, in order only that a
389 *Beginning* might be made, and acquainted Mr. *Paris* that they would, then, adjourn to a further Time, to hear any Arguments he, or his Council, might offer on the Caſe depending before their Lordſhips on the Defendant's ſaid Petition; and the ſaid Mr. *Paris*, upon ſuch laſt mentioned Attendance before the Lords of Trade on the 16th of *October* 1734, informing their Lordſhips that he intended to preſent a Counter Petition to his Majeſty on Behalf of the Plaintiffs, and in Oppoſition to the Defendant's ſaid Petition; their Lord-
390 ſhips were pleaſed to acquaint Mr. *Paris*, that their Lordſhips were ready, and would hear any thing he the ſaid Mr. *Paris*, or his Council, thought fit to object or offer, either in Oppoſition to the Defendant's ſaid Petition then under their Conſideration, or in Support of the Plaintiffs Title to the ſaid three Lower Counties; to which Mr. *Paris* then replied, that, as he knew that to be the Senſe of the Board, he would deſiſt from preſenting any ſuch Counter Petition to his Majeſty as he had before purpoſed to do, and promiſed to take notice of their Lordſhips further Appointment for the *Monday* following.

391 And accordingly the Defendant ſaith, on the ſaid *Monday* following, being the 21ſt of the ſame *October*, the ſaid Mr. *Paris* attended the ſaid Board with Counſel, and the Plaintiff *Richard Penn* was preſent, likewiſe, and prayed *further time* of their Lordſhips to be heard till the 20th of *December* following, when, they aſſured their Lordſhips, they would then, certainly, proceed, without aſking any further time, and without any further delay, and with which time their Lordſhips were further pleaſed to indulge them.

392 Saith that, on the ſaid 20th of *December* following, the Defendant again attended the ſaid Lords of Trade and Plantations, and was heard, by himſelf and Counſel, in Support of his ſaid Petition; and the ſame not being gone through upon that Attendance, was, afterwards, heard again by their Lordſhips, in the ſame manner, upon the 31ſt of the ſame *December*; but the ſaid Mr. *Paris*, who had kept their Lordſhips in ſuſpenſe all that time, in expectation of laying the Plaintiffs Pretenſions and Title to the ſaid Counties
393 before their Lordſhips, and had, upon that Account, delayed their Lordſhips taking this Defendant's ſaid Petition into their Conſideration from Time to Time, declined laying the ſame before their Lordſhips, or appearing in Support of their pretended Right, and only ſtood by to take notice of what paſſed, and what was offered by the Defendant and his
394 Counſel; upon which their Lordſhips, after having heard the Defendant and his Counſel, in Support of his ſaid Petition, that is to ſay, on the 16th of *January* 1734, made their Report to his Majeſty, among other Things, ſetting forth the Subſtance of the Defendant's ſaid Petition, and humbly acquainting his Majeſty, that the Lands in queſtion, commonly called the three Counties on *Delaware* River, ſuppoſed to be excepted by the Words *Hactenus inculta*, appeared to their Lordſhips to be included *in the Limits* of this Defendant's Charter, but they having been in the Poſſeſſion of the Plaintiffs Family, for ſeveral Years, their Lordſhips thought it proper to communicate the Defendant's ſaid Petition
395 to the Plaintiffs Agent, that they might have an opportunity to lay before their Lordſhips what they thought proper in relation to the ſaid Petition, and to the Plaintiffs Title to the ſaid Lands; and their Lordſhips were likewiſe pleaſed, in their ſaid Report, to ſet forth, that they had been frequently attended by the Plaintiffs Agent, and by the Plaintiff *Richard Penn*, who had promiſed to lay an Account of the Plaintiffs Title before the Board, but that, after having kept their Lordſhips in expectation thereof for ſeveral Months,
396 they, at laſt, refuſed to proceed therein, whereby their Lordſhips were diſabled from offering any Thing to his Majeſty relating to their Claim, except that they found, by their Books, that, for ſome time paſt, whenever the Plaintiffs, the Proprietors of *Penſilvania*, had nominated a Perſon for the Approbation of the Crown to be Deputy Governor of that
397 Province, and of the ſaid three Lower Counties, they have given *Declarations*, under their Hands and Seals, which are extant in their Office from 1702 to the laſt Nomination in 1733, whereby they acknowledge and agree that the ſaid Approbation ſhall not be conſtrued, in any manner, to diminiſh or ſet aſide the *Claim* made by the Crown to the ſaid three Lower Counties; and their Lordſhips were, likewiſe, pleaſed further to ſet forth, by their ſaid Report, that, upon the Plaintiffs Refuſal to proceed therein, their Lordſhips thought
398 it their Duty to examine the ſeveral Facts ſet forth in the Defendant's ſaid Petition, and thereby alledged by the Defendant as a Ground for his Hopes of his Majeſty's Favour; and begged leave to acquaint his Majeſty that they, thereupon, found that there was no room to doubt the Lands in queſtion were comprized *within the Limits* deſcribed by the ſaid original Charter of *Maryland* dated the 20th of *June* 1632; and their Lordſhips, likewiſe in their ſaid Report, further ſet forth that they had examined the *ancient Records* of their
399 Office, and found the Order of Council of the 4th of *April* 1638 herein before-mentioned, and ſet forth (which recites the Purport of a former Order dated the 3d of *July* 1663, [Note, he means 1633,] upon *Clayborne*'s Petition) and whereby their Lordſhips found *the Senſe of the Council, then, was, that the Right and Title to the ſaid Iſle of* Kent, and the other Places therein, then in queſtion, *abſolutely belonged to the Lord* Baltimore; and their Lordſhips, by their ſaid Report, further ſtated to his Majeſty, the ſaid Original Order in
400 Council of 1685 (herein likewiſe before-mentioned and ſet forth) for dividing the ſaid Counties, and declaring one half thereof to belong to his Majeſty, and the other half to the Lord *Baltimore*, as comprized within his Charter; and that the ſaid laſt mentioned Order of 1685 was ordered to be carried into Execution, ſoon after the late King *James*'s Acceſſion to the Crown, and was confirmed by the late Queen.

401 Whereupon, their Lordſhips obſerved to his Majeſty that the *Senſe* of the Crown, and the Lords of the Council, in thoſe *ſeveral* Deciſions, ſeemed to have been governed by the Purport of the Words *Hactenus inculta*, but, notwithſtanding theſe Words were in the *Preamble*, yet, they were not inſerted by way of *Reſtriction* in the *body* or *granting Part* of the Defendant's ſaid Charter; and, as the Authorities ſeemed, to their Lordſhips, to be *equal*, with regard to the Interpretation hitherto given them, ſo their Lordſhips
402 ſubmitted it to his Majeſty, whether the *Senſe* in which they were underſtood by the Privy Council in 1683, [*Note*, Here he again means 1633] and 1638, *being ſo ſoon after the Date* of the Original Grants of *Maryland*, *when the real Intention of the Crown* in that Grant ought to have been more clearly known to the Lords of the Council, or, the
403 latter Deciſion therein, and on which this Matter was again made the Subject of an Enquiry in Council *ſo long afterwards* as in 1683 and 1685, ſhould have the Preference?

And, if it ſhould be determined that the Right to the Lands in Queſtion ſtill remained *in the Crown*, their Lordſhips humbly beg leave to offer it, as their Opinion, that the Defendant had very juſt Pretenſions to his Majeſty's Favour, in Conſideration of the great Sums of Money that have been expended by his Anceſtors in ſettling the Province of
404 *Maryland*, and in bringing the Cultivation of Tobacco to perfection there, whereby the Trade and Revenue of this Kingdom have gained, and do daily receive, very great Augmentations, as by the ſaid Report of the ſaid Lords of Trade, to which the Defendant for his greater Certainty begs leave to refer, will more fully and at large appear.

Saith that, on the above Report of the ſaid Lords of Trade being laid before his Majeſty in Council, his Majeſty was pleaſed to refer the ſame, together with the Defendant's ſaid Petition, to the Right Honourable the Lords of his Majeſty's moſt Honourable Privy Council.

405 And ſaith that, pending ſuch Reference before the ſaid Lords of Trade as herein before is mentioned and ſet forth, and notwithſtanding their Lordſhips had declared, to Mr. *Paris* the Plaintiffs Agent, that their Lordſhips would hear *any thing* they had to offer, either in Oppoſition to the Defendant's ſaid Petition, or in Support of their Title to the ſaid three Lower Counties, and notwithſtanding, upon ſuch Declaration of their Lordſhips, Mr. *Paris* the Plaintiffs Agent aſſured their Lordſhips he would *deſiſt* from preſenting
406 any Petition to his Majeſty, yet, he, as the Defendant believes, preferred a very long Petition to his Majeſty in Council, on behalf of the Plaintiffs, ſetting up *a Title* to the ſaid three Counties, but praying that they might not be obliged to ſet forth the ſame, and that the Defendant's ſaid Petition might be diſmiſſed, and that the ſaid Petitioners Poſſeſſion and Title might be confirmed, and that they might be indulged with a reaſonable time to be heard thereon; which Petition being referred by his Majeſty to a Committee
407 of Council, the Plaintiffs on the 19th of *December* 1734 moved their Lordſhips that the ſaid Petition might be referred to the Board of Trade, but the Defendant ſaith that their Lordſhips, being acquainted with what had paſſed in this Affair at that Board, and being ſatisfied, as the Defendant verily believes, that the ſame was prayed by the Plaintiffs with no other View than to delay and retard the ſaid Report of the Board of Trade, their Lordſhips did not ſee Cauſe to refer the Plaintiffs ſaid Petition to the Board of Trade,
408 declaring they would take the Plaintiffs ſaid Petition into Conſideration at the ſame time with the ſaid Report of the Board of Trade, when that ſhould be laid before their Lordſhips.

And ſaith on the 4th of *March* 1734 the Defendant's Sollicitor moved the Lords of the Committee, as the Defendant believes, to appoint a Day for taking the above Report
409 of the Board of Trade and the Plaintiffs ſaid Petition into their Conſideration, and likewiſe another Petition, that had been preſented to his Majeſty by the Plaintiffs Sollicitor, in the Names of ſeveral Quakers, Inhabitants of the ſaid three Lower Counties, into their Conſideration, which the Sollicitor for the Plaintiffs, as the Defendant hath been informed by his Sollicitor and verily believes, ſtrongly oppoſed, praying that the Conſideration thereof might be poſtponed, till they could have an Opportunity of hearing from *Penſilvania*;
410 but which, on conſidering the length of time that had paſſed ſince the preſenting the Defendant's ſaid Petition and the Plaintiffs Sollicitor firſt having Notice of it, and on the Defendant's making out to their Lordſhips that Ships had arrived at *Penſilvania* from *London*, and Anſwers to Letters, ſent by ſuch Ships, been returned within that time, their Lordſhips, as the Defendant believes, refuſed to comply with, and ordered the ſaid Report of the Board of Trade, together with the ſaid two Petitions, to be heard the firſt Committee after *Eaſter* then next.

411 And ſaith that, on the 2d of *May* 1735, being the firſt Committee after the ſaid *Eaſter* appointed by their Lordſhips for hearing the ſaid Report and Petition, the Defendant's Sollicitor again applied to their Lordſhips, to appoint a certain Day purſuant to their Lordſhips laſt Order for hearing this Matter, which the Defendant ſaith, he hath been informed and believes, was oppoſed by the Plaintiffs Sollicitor, but which Oppoſition was rejected by their Lordſhips, and *Friday* then next was appointed for taking the ſaid whole Matter into their Lordſhips Conſideration.

412 And ſaith that, he hath been informed and believes, the Lord Preſident, at this laſt Motion, acquainted the Sollicitors that he had received a Letter, himſelf, from one of the Plaintiffs, acquainting his Lordſhip that the Defendant was by Articles bound to convey to them the Lands in Controverſy, and therefore humbly hoping and inſiſting that their Lordſhips would not come to any Reſolution till it was determined, in a Court of Equity, on a Bill he intended to File for a ſpecifick Performance of thoſe Articles, whether the Defendant was bound to perform them, or not, or to that Effect.

413 Saith that their Lordſhips of the Committee, afterwards, on the 10th of the ſame *May*, heard Council, on both Sides upon the Report of the ſaid Lords of Trade and Plantations and the ſaid two Petitions of the Defendant and the Plaintiffs; and their Lordſhips, afterwards, made a Report to his Majeſty in Council, whereupon the Defendant be-
414 lieves his Majeſty, by Order in Council of the 16th Day of *May* 1735 (made upon reading the laſt mentioned Report) was graciouſly pleaſed to order that the Conſideration of the ſaid Report of the Lords Commiſſioners for Trade and Plantations of the 16th of *January* 1734, and of the ſaid two Petitions preſented in Behalf of the Plaintiffs, or of ſome of the Poſſeſſors and Owners of Lands in the ſaid three Lower Counties, ſhould all be adjourned, unto the End of *Michaelmas* Term then next, that either Party might have an
415 Opportunity to proceed, in a Court of Equity, to obtain Relief upon the ſaid Articles of Agreement, as they ſhould be adviſed; and that, after the Expiration of the ſaid Term, either Party ſhould be at liberty to apply to the ſaid Committee of Council, as the Nature of the Caſe might require; but the Defendant, for his greater Certainty herein, begs leave to refer to the ſaid laſt mentioned Order and Report.

416 Saith that the Plaintiffs had full and due Notice, *by their Agent*, in the manner herein before mentioned, both from the Defendant himſelf, and the Secretary to the Lords Commiſſioners for Trade and Plantations, of the Defendant's Application.

Denies that he either knows, or believes, that ſuch Notice thereof to the Plaintiffs ſaid Agent from the Lords of Trade was accidental, as is pretended by the Bill, but was purpoſely ſent, and with the Defendant's Knowledge and Privity, and the Defendant believes it to be true that Mr. *Paris* the Plaintiffs ſaid Agent, did, ſoon after his being ſo
417 ſent to by the Secretary of the Lords of Trade as aforeſaid, attend their Lordſhips, and that he might, then, on the behalf of the Plaintiffs, and in the Preſence of the Defendant, deſire to know what it was that the Defendant prayed for by his ſaid Petition? And that the Defendant might, then declare, in his Anſwer thereto, that he then petitioned for a confirmatory Grant of the ſaid three Lower Counties, or to that Effect; and that, upon the Plaintiffs deſiring time of their Lordſhips as is before mentioned, the Defendant, plainly
418 foreſeeing it was intended for delay, as it afterwards evidently appeared as the Defendant humbly apprehends, he the Defendant did oppoſe the ſame, in the manner herein before mentioned, but in no other manner whatſoever.

Denies that he either knows, or believes, or ever heard, ſave from the Bill, that any ſuch pretended *blank* Paper, *unauthenticated*, or *not ſigned*, was *offered to the* ſaid Lords
Notwithſtanding all this Denial the Bill is moſt preciſely true. 419 Commiſſioners on the Defendant's Behalf, at their Hearing the Defendant's ſaid Petition, as an authenticated Office Copy of the ſaid Order in Council of the 4th of *April* 1638, *as is ſcandalouſly ſuggeſted and inſinuated in and by the Bill*; nor were their Lordſhips, *any ways*, impoſed upon, or deceived, therein, or took any Papers whatſoever that was or were offered to their Lordſhips *as a real Copy* of any Order in Council, or other Proceedings whatſoever, *which really and in Fact was not ſo.*

420 Saith he apprehends, and is adviſed, that it appears from the Report of the ſaid Lords of Trade of the 16th of *January* 1734, and from the *Records* in the Office, that *there was ſuch* an Order in Council of the 4th of *April* 1638 as is before mentioned, though the Plaintiffs are pleaſed to alledge there was not.

And yet, it is moſt undoubtedly true that they have omitted the very Heart of that Determination. 421 Denies that he either knows, or believes, that the ſaid Report of the ſaid Lords of Trade of the 16th of *January* 1734 was founded chiefly on the ſaid Order in Council of the 4th of *April* 1638, or that their Lordſhips, in their ſaid Report, omitted to ſtate *any part* of his Majeſty's Determination in 1685, as is ſuggeſted by the Plaintiffs ſaid Bill; the ſaid Report being to the Effect herein before ſet forth, and to no other Purport or Effect, to the Knowledge or Belief of this Defendant.

422 Saith that he hath heard and believes after the Expiration of the time mentioned in the ſaid Articles of Agreement for running the Lines was expired, the Plaintiffs might receive an Account of the Uneaſineſs and Diſſatisfaction of the Inhabitants of the ſaid three Lower Counties were under, at the ſaid Lines not being run.

And believes it is very likely the Plaintiffs Affairs would have been in a much better Condition if the Plaintiffs could have intitled themſelves to the Advantages of that Agreement.

And

423 And alſo believes that the Tenants and Occupiers of Lands in the ſaid three Lower Counties have, and do refuſe, to pay *any* Quit-Rents to the Plaintiffs; but not for the Reaſons in the Bill mentioned; for he hath heard and believes they *always* refuſed to pay the ſame, as well before, as ſince the ſaid Articles of Agreement, and that they *never have paid* Quit-Rents to the Plaintiffs or their Anceſtors.

424 Denies that he had ſeveral, or any, Conferences with his ſaid Commiſſioners, or any of them, as is pretended by the Bill, in order to contrive how to evade the ſaid Agreement, or that many, or any Propoſals or Hints were given him by his ſaid Commiſſioners, or any of them, for that purpoſe, or that any Encouragements or Advantages were offered or ſtated to him by his ſaid Commiſſioners, or any of them, or any other Perſon, if he would defeat the ſaid Articles, or that he was, at laſt, by that means, prevailed upon to conſent
425 thereto, *in the manner* as is pretended and ſuggeſted by the Bill, nor did he give any Orders to his ſaid Commiſſioners, or any of them, to do all that they could to avoid the ſaid Agreement, as is likewiſe ſuggeſted by the Bill.

Denies that the Letter, wrote by him to the Plaintiffs ſaid Commiſſioners from *Maryland*, upon his receiving an Account from his own Commiſſioners of their having diſcontinued
426 their Meetings, and appointing another Meeting at *Joppa*, in the manner herein before mentioned, was writ or ſent by the Defendant as being Conſcious his own Commiſſioners had not proceeded with Candour, or with a View to accept of Notice to revive the Meetings of the Commiſſioners leſt he himſelf, and not the Plaintiffs, ſhould incur the Forfeiture in the ſaid Articles, or that, at the time of his Writing ſuch Letter, he had ever declared that his Commiſſioners ſhould meet again, *only* to prevent ſuch Forfeiture, as is untruly al-
427 ledged in the Bill; on the contrary, ſaith he wrote ſuch Letter to the Plaintiffs meerly out of a Condeſcenſion and Favour to the Plaintiffs, and not out of any pretended Senſe or Belief of his having incurred the ſaid Forfeiture by the Conduct of his ſaid Commiſſioners, but at the time of Writing ſuch Letter, in ſtrictneſs, look'd upon himſelf intitled to the Forfeiture from the Plaintiffs by the Non-Attendance of their Commiſſioners in the manner herein before mentioned and ſet forth.

428 Saith that he believes it as eaſy, and practicable, in a proper Seaſon of the Year, now, to run, mark and lay out, the Bound-Lines, agreed upon by the ſaid Articles of the 10th of *May* 1732, as it was between the Month of *October* 1732 and *Chriſtmas* 1733, *if the ſaid Agreement was ſtill ſubſiſting and in force, but which* he inſiſts and is adviſed, *it is not*,
429 for the Reaſons *herein before*, and *hereafter*, mentioned and ſet forth.

Believes it might take up two or three Months time to run out all the ſeveral Lines and Bounds, purſuant to the ſaid Agreement in *May* 1732, in caſe no Difference in Judgment had aroſe between the Commiſſioners.

Saith that, ſoon after the Defendant's Arrival in *Maryland* as before mentioned, and upon his being informed of the Doubts and Difference in Opinion touching the Circle to be
430 drawn, he declared, as he really thought, that he believed his interfering, or giving any Directions to his Commiſſioners, concerning the Execution of the Truſt repoſed in them, might thereafter be ſo ill interpreted as that, if he ſhould do it in one Caſe, in order to reconcile ſuch Doubt or Difference, it might be made uſe of to inſinuate that he did it, in
431 another Caſe, and upon other Occaſions, to create Doubts and Differences to obſtruct the Execution of the ſaid Articles; and therefore, for that reaſon, he declined giving *any* Directions to his Commiſſioners, upon their communicating ſuch their Doubts and Difference in Opinion to the Plaintiffs Commiſſioners, and left it *entirely* to his Commiſſioners, to act according to their own Judgments, without giving any Opinion or Directions, one way or other, and the Defendant, at that time, acquainted the Plaintiffs Commiſſioners to the ſame purpoſe, and with ſuch his Reaſons for declining to give any Directions to his Commiſſioners upon that Occaſion.

432 Denies that ſuch Difference in Opinion between the Commiſſioners was *only* pretended, or a *meer Pretence*, to avoid the ſaid Agreement, as by the Bill is ſuggeſted, or that the ſame had been *before* directed by the Defendant to be made uſe of by his ſaid Commiſſioners, *as a means to ſpin out the time* by the ſaid Articles provided and appointed for running out the ſaid Lines, and to avoid the ſaid Agreement, as is likewiſe ſuggeſted by the Plaintiffs ſaid Bill.

433 Is adviſed and apprehends that it appears, from the Proceedings of the ſaid Commiſſioners, as herein ſet forth, that not running the Lines, within the time limited for that purpoſe, was no ways occaſioned through the Default or Deſign of the Defendant, or his Commiſſioners, but through the Default and Obſtinacy of the Plaintiffs Commiſſioners, for that, when ſuch Difference in Judgment between the ſaid Commiſſioners with reſpect to the Circle to be run, as herein before mentioned, happened, and the Defendant's Commiſſioners
434 did not Obſtinately rely on *their own* Judgments, but offered to take the Advice and Information of Mathematicians, and ſuch Perſons who were thought capable of convincing them, and reconciling ſuch Differences in Judgment that had happened with Reſpect thereto, which the Plaintiffs Commiſſioners refuſed, although the Defendant's Commiſſioners, as the Defendant hath been informed and verily believes, told them that they did not intend ſuch Advice ſhould be ſo binding as to oblige the Plaintiffs ſaid Commiſſioners to follow and purſue
435 it *at all Events*, but only propoſed it for their better Underſtanding the Point in Doubt, and in order to reconcile their Opinions, and put the Matter in ſuch a light as to enable them to perform and compleat the ſaid Agreement purſuant to the ſaid Articles within the time allowed them by the ſaid Articles for that purpoſe; and although the Plaintiffs ſaid Commiſſioners thought fit to refuſe and avoid the Satisfaction deſired by the Defendant's Commiſſioners in the manner before ſet forth, yet, as the Defendant hath likewiſe been informed
436 and verily believes, his Commiſſioners not only had the Opinion of ſuch Perſons there, who were *reputed* to have *a Knowledge* in Mathematicks, but actually laid that Opinion upon the Point in Diſpute, ſubſcribed by ſuch Perſons, before ſuch of the Plaintiffs Commiſſioners as were preſent on the Day ſuch Default was made as aforeſaid: And it likewiſe further appears, as the Defendant inſiſts, that the Defendant's Commiſſioners, notwithſtanding the ſaid Default of the Plaintiffs Commiſſioners, renewed their Meetings, and when
437 the Defendant's Commiſſioners perceived the Plaintiffs Commiſſioners ſo obſtinate in their own Senſe of the Circle, as not to agree with them the Defendant's Commiſſioners in receiving Information from the Mathematicians, the Defendant's ſaid Commiſſioners, thereupon, ſeveral times, offered to proceed to Cape *Hinlopen*, in order to endeavour to agree upon and execute as much of the Articles as they could, within the limited Time for that purpoſe, but which the Plaintiffs Commiſſioners alſo abſolutely refuſed.

Defendant is adviſed and inſiſts that from this, and the ſeveral Papers exchanged by the Commiſſioners, as herein ſet forth, it plainly appears his Commiſſioners were not in any
438 wilful Default to occaſion any Delay.

And conceives that his ſaid Commiſſioners were right, in their Opinion, as to the *Dimenſions* and Nature of the Circle intended to be run by the ſaid Agreement, the Defendant being adviſed and apprehending that it appears by the *whole Tenor* of the Agreement, as well as by the ſecond Article thereof, that the *Intention* of the Parties thereto was to have *no*
439 *other* Circle run than what was pretended to be granted and deſcribed by the Plaintiffs ſaid Deed of Bargain and Sale or Feoffment of *Newcaſtle*, and therefore, although the Words only (of) 12 Miles were inſerted in the ſaid Articles, yet, as they were a *Contradiction* to the other part of the Article, and alſo to the *whole* Agreement, *the Defendant's Commiſſioners did right, as the Defendant is adviſed and inſiſts*, in deſiring and inſiſting upon the Plaintiffs Commiſſioners running the Circle mentioned in the Deed of Feoffment of *Newcaſtle*,
440 rather than to inſiſt on the Words (only of) 12 Miles, which would, by the Conſtruction contended for by the Plaintiffs Commiſſioners, by a manifeſt Contradiction as before mentioned, *deſtroy* the whole Articles.

Is adviſed and conceives that the running the Circle was not neceſſary the firſt thing in Courſe to be done, purſuant to the ſaid Articles, or any otherwiſe than that the ſecond Ar-
441 ticle of the Agreement mentions the Circle to be run about *Newcaſtle*; for that an Eaſt and Weſt Line, from Cape *Hinlopen*, might, with regard to the Execution of the Agreement, have been as well run firſt, as the Circle about *Newcaſtle*; but ſaith he hath been informed and believes that, as the running the Circle about *Newcaſtle* was placed in the firſt Article of the Agreement, the Commiſſioners at their firſt Meetings conſidered the Execution of that; and as it was neceſſary to fix and determine a Center, before ſuch Circle
442 could be run, and as there was no Place fixed, either about, or in, the Town of *Newcaſtle*, by the ſaid Articles, for ſuch Center, a Queſtion, very naturally, (as this Defendant conceives) aroſe, at the Meetings of the Commiſſioners before this Defendant's Arrival in *America*, as before ſet forth, about the Place where ſuch Center ought to be fixed.

Is adviſed and conceives that the greater Caution was neceſſary, in this Matter, in regard the Town of *Newcaſtle* (although he admits there are not *many* Houſes in it) ſtands
443 upon a large Space of Ground, and is near two Miles in length from North to South; ſo that there was room enough for the Commiſſioners to place, and vary, the Centre of ſuch Circle from the Places where it ought to be, and as that would be a great Advantage, or Diſadvantage, to the Parties, in running the Radius of ſuch Circle more to North or South, which would materially intrench on either Party, ſo the Defendant is adviſed and apprehends it plainly appears that this was a Queſtion which aroſe *among ſt* the Commiſ-
444 ſioners before the Defendant's Arrival in *America*, and was not any ways concerted or pre-adviſed by the Defendant or any of his Commiſſioners in order to avoid or evade the ſaid Agreement, as is untruly ſuggeſted in and by the Bill.

Is adviſed and inſiſts that the not running the ſaid Lines by the 25th of *December* 1733, as provided for by the ſaid Agreement, was not occaſioned, or any ways owing to, any
445 Default or Miſbehaviour in the Defendant's Commiſſioners, or any of them, but to the Default and Miſbehaviour of the Plaintiffs Commiſſioners, and *from the Difference in Opinion* that happened between the ſaid Commiſſioners, in the manner before ſet forth.

Doth not admit that the ſaid Articles of Agreement of the 10th of *May* 1732 *do now exiſt*, or ſubſiſt in full Force and Virtue, but, on the contrary, inſiſts that the ſame are now
446 *abſolutely void*; and *the Reaſon* he inſiſts the ſame are void are, as herein *before particularly* mentioned and ſet forth, *and for that*, there was a *manifeſt Falſity* introduced, as part of the Agreement, and impoſed upon the Defendant by the Plaintiffs in manner before mentioned, though he is very well aſſured the Plaintiffs muſt have been apprized and knew thereof at the time of executing the ſaid Articles of Agreement, for he ſaith, he hath *ſince diſcovered*, and *it is obſervable*, that on the Map upon which the ſaid Agree-
447 ment was founded, and which is made part of the ſaid Agreement as is before ſet forth, *Cape Cornelius* is deſcribed to be over-againſt Cape *May*, and Cape *Hinlopen* is repreſented to be at a conſiderable Diſtance, which is generally as the Defendant hath been informed and believes, computed to be about 20 Miles to the Southward of Cape *Cornelius*; *whereas it is manifeſtly* Evident from *all other* Maps, and is notoriouſly known, that the Place called the *Whore-Kill* was near, or at, the Place called Cape *Cornelius*, and the
448 general, and received, Opinion and Underſtanding of People in thoſe Parts is, and has been, for many Years paſt, that Cape *Hinlopen* was at the Point whereabouts Cape *Cornelius* is placed, and near where the Town or Village called the *Whore-Kill* is ſituated; and the very Deeds from the Duke of *York*, under which the Plaintiffs ſet up their pretended Title to the ſaid Counties in Diſpute, and which are recited alſo in the Preamble of the ſaid Articles of Agreement, to the beſt of the Defendant's Remembrance, de-
449 ſcribed Cape *Hinlopen alias* the *Whore-Kill* to be the ſame; and in regard to this *manifeſt Falſity*, and the *Impoſition* upon the Defendant by the Plaintiffs, and for the Reaſons *herein before mentioned*, and *as the* Plaintiffs, in caſe the ſaid Agreement was to be carried into Execution, *could not make the Defendant any manner of Title, whatſoever*, to ſuch Part of the ſaid three Lower Counties as, according to ſuch Diviſion, might fall to the Defendant's Share, or be deemed Part of his ſaid Province of *Maryland*, the Plaintiffs them-
450 ſelves having, as the Defendant apprehends, no manner of Right or Title whatſoever to the ſaid three Lower Counties, or any part thereof, and as the ſaid Agreement the Plaintiffs ſo deſire to be carried into Execution was a *voluntary Agreement* on the part of the Defendant, *and without any manner of Conſideration whatſoever* given or allowed him for his entering into the ſame, and as there was *no poſſibility of any Benefit or Advantage* accruing therefrom to the Defendant, but, on the other hand, a *manifeſt Prejudice*
451 and *Diſadvantage*; and *as the Defendant was impoſed on therein*, in the manner before mentioned, both with regard to the *Situation* of Cape *Hinlopen* as is before ſet forth, as likewiſe with regard to the *Plaintiffs pretended Titles* to the ſaid Counties, the Defendant, *at the time of his entering into the ſaid Agreement*, being induced to believe that the
452 Plaintiffs *could have made* the Defendant a good Title to ſuch Parts of the ſaid three Lower Counties as might have fallen to his Share, but which he hath, ſince, by Papers which have been tranſmitted him from *America*, and otherways, been plainly convinced they cannot, *therefore*, hopes the Plaintiffs ſhall *not* have any ſuch *Relief* as is prayed by their Bill againſt the Defendant, and that the ſaid *Articles ſhall not* be *carried into Execution*, by the Aid, Aſſiſtance or Direction of this Court, in any reſpect whatſoever, but ſhall be
453 *delivered up* to the Defendant to be cancelled, and likewiſe hopes that the Plaintiffs ſhall be decreed to pay the Defendant all the *Coſts* and *Expences*, both himſelf and his Commiſſioners were at, relating to their Endeavour in executing the ſaid Agreement of the 10th of *May* 1732, as likewiſe *all other Coſts* the Defendant may have been any way put to by the reaſon of the ſeveral Matters before ſet forth.

And this Defendant ſubmits whether Mr. Attorney-General, on behalf of the Crown, ſhould not be made a Party to the Plaintiffs Bill.

454 Denies Combination, and concludes with the general Traverſe.

The Schedule in the Anſwer mentioned, and thereby referred unto.

Proceedings by the Commiſſioners appointed by the Right Honourable the Lord Proprietary of *Maryland* and the Proprietaries of *Penſilvania* for running the Lines and Bounds of their Provinces.

Oct. 6. Oct. 7. 456 AN Agreement having been concluded, between the Right Honourable *Charles* Lord *Baltimore*, Proprietor of the Province of *Maryland*, and *John*, *Thomas*, and *Richard Penns* Eſqs; Proprietors of the Province of *Penſilvania*, *&c.* touching the Boundaries of their reſpective Governments, and Commiſſioners being named on both Sides for executing the ſaid Agreement, a Meeting of them was appointed, at *Newtown*, in the County of *Kent*, in *Maryland*, on the 6th Day of *October* 1732, where the ſaid Com-
457 miſſioners being accordingly come, a Meeting was held, the Day following, where were preſent the Lieutenant-Governor of *Maryland*, the Honourable *Charles Calvert* Eſq; *Philip Lloyd* Eſq; *Michael Howard* Eſq; *Richard Bennet* Eſq; *Matthew Tylghman Ward* Eſq; the Lieutenant-Governor of *Penſilvania*, *Iſaac Norris* Eſq; *Samuel Preſton* Eſq; *Andrew Hamilton* Eſq; *James Steele* Gent. *Robert Charles* Eſq;

458 A Commiſſion, from the Right Honourable the Lord *Baltimore*, bearing Date the 12th Day of *May* 1732, nominating and appointing the ſaid Lieutenant-Governor of *Maryland*, *Charles Calvert*, *Philemon Lloyd*, *Michael Howard*, *Richard Bennet*, *Matthew Tylghman Ward* and *Benjamin Taſker* Eſqs; or any ſix, five, four, or three of them, to be his Lordſhip's Commiſſioners, and a Commiſſion from the ſaid *John*, *Thomas*, and *Richard Penns* Eſqs; bearing Date the 12th Day of *May* 1732, nominating and appointing the ſaid Lieutenant-Governor of *Penſilvania*, *Iſaac Norris*, *Samuel Preſton*, *Andrew Hamilton* Eſq; *John Steele*, *Robert Charles* Gent. with *James Logan* Eſq; or any ſix, four or three
459 of them, to be their Commiſſioners, for running, marking, and laying out the Circle and the ſeveral Lines and Boundaries in the Agreement between the ſaid Proprietaries ſpecified, were produced, and read, as were likewiſe the Original Agreements, bearing Date the 10th Day of ſaid *May*.

And the ſaid Commiſſioners preſent did, *unanimouſly, agree* that they, or a ſufficient Quorum of them, without further Notice, ſhould meet, at the Town of *Newcaſtle*, on *De-*
460 *laware*, on *Monday* the 30th Day of *October* Inſtant, *in order* then to proceed *to mark out the Circle* in the ſaid Agreement mentioned.

Oct. 30. Then, to wit, *October* the 30th 1732, his Excellency the Governor of *Maryland*, and *Philemon Lloyd*, *Michael Howard*, *Richard Bennet*, and *Benjamin Taſker*, Eſqs; and the Governor of *Penſilvania*, *Iſaac Norris*, *Samuel Preſton*, *James Logan*, *Andrew Hamilton*, *James Steele* and *Robert Charles* Eſqs; *met*, at *Newcaſtle*, according to the laſt Ap-
pointment, *to run out the Circle* about *Newcaſtle*, in purſuance of the ſecond Article of the Agreement; and that Article obliging the Commiſſioners to run out the Circle men-
461 tioned in the Charter of *Penſilvania* and Deed of Feoffment for *Newcaſtle*, the Commiſſioners for *Maryland* deſired the Charter, and Deed of Feoffment, might be produced, for their Direction in running out the ſaid Circle: The Commiſſioners for *Penſilvania*, on the other hand, that, as they were recited, they were obliged to ſtand to that Recital, whe-
ther true or falſe; but, as the Commiſſioners of *Maryland* inſiſted that the Intention of both Proprietaries was to run out the Circle according to the Deed of *Feoffment* and no *other*,
462 the Commiſſioners for *Penſilvania* produced their Charter, and an Exemplification of the Deed of Feoffment: The Commiſſioners for *Penſilvania* having laid it down, as a ſettled Point in Law, that the *leaſt* Variation in their Proceedings from the Powers and Authorities contained in their Commiſſions would render them wholly ineffectual and void, a Dif-
ficulty aroſe, upon peruſing the Articles of Agreement, there being no Spot appointed therein for the Centre to the ſaid Circle, which, ſhould the Commiſſioners take upon them to
463 determine, would cauſe ſuch a *material* Alteration, to the Advantage of one or other of the Proprietaries, as they were not impowered to make: Hereupon, for the further and better Conſideration of the Affair, the Commiſſioners mutually agreed to adjourn to the 1ſt Day of *February* then next enſuing.

Feb. 1. The following Commiſſioners (*viz.*) his Excellency *Samuel Ogle*, *Charles Calvert*, *Matthew Tylghman Ward*, *Michael Howard*, *Benjamin Taſker* and *Edmund Jennings* Eſqs; appointed, on the behalf of *Maryland*, by the Right Honourable the Lord *Baltimore*, and the following Commiſſioners (*viz.*) *Iſaac Norris*, *Samuel Preſton*, *Andrew Hamilton*,
464 *James Steele* and *Robert Charles* Eſqs; appointed, on the Part of *Penſilvania*, by the Honourable the Proprietaries of that Province, being met, at the Town of *Newcaſtle*, the 1ſt Day of *February* 1732, purſuant to an Adjournment made by a ſufficient Quorum of the Commiſſioners at the ſaid Town of *Newcaſtle* the 30th Day of *October* 1732, *to pro-*
465 *ceed in the running*, &c. the Circle and Lines agreed by the Articles to be run, his Excellency *Samuel Ogle* Eſq; acquainted the Commiſſioners of *Penſilvania* that, notwithſtanding the Rigour of the Seaſon, and Extremity of the Weather (the like not known theſe many Years) and the Diſtance of 100 Miles, and the Difficulty of paſſing the Bay of *Cheſapeak* and the Rivers, they, on the Part of *Maryland*, to ſhew their Readineſs for the Execution of the Agreement, had ſurmounted all Obſtacles of their Journey, in order to meet them
466 on that Day and Place appointed; and further, that the Lord *Baltimore*, who, then in *Maryland*, deſiring that there might not be want of a ſufficient Number of his Commiſſion-
ers for the above Purpoſes, and conſidering the ill State of Health of *Richard Bennet* Eſq; one of his Commiſſioners, formerly appointed, and the Diſappointments which might happen to the others, in their intended Journey to *Newcaſtle*, had appointed *Edmund Jennings* to be his Commiſſioner, in the place and ſtead of *Richard Bennet*. Then, his Ex-
cellency obſerving that the Commiſſioners, on the part of *Penſilvania*, might probably be fatigued with their Journey of about 40 Miles from *Philadelphia*, propoſed, if they
467 thought fit, for their Conveniency to adjourn until the next Day, which was readily conſented to, and, thereupon, they adjourned to *Friday* the 2d Day of *February* at ten of the Clock in the Forenoon, in the Aſſembly Room, in the Court-Houſe, which Place the Commiſſioners of *Penſilvania* deſired might be the Place of Meeting.

Feb. 2. At which time the Commiſſioners, above named, being met, his Excellency thought proper to produce the Commiſſion from the Lord *Baltimore* appointing *Edmund Jennings*
468 one of his Commiſſioners, which, being peruſed by ſome of the Commiſſioners on the Part of *Penſilvania*, was returned to the ſaid *Edmund Jennings*; his Excellency then deſiring to ſee the Commiſſion from the Proprietaries of *Penſilvania*, appointing their Commiſſioners, a Copy was produced, which differed from the Manner of Appointment mentioned in the Minutes taken at *Newtown*; for that, by thoſe Minutes, *James Logan* ſeems to be made a Perſon always neceſſary to attend, and therefore his Excellency deſired the Origi-
469 nal might be produced, which was promiſed: His Excellency acquainted the Commiſſioners on the Part of *Penſilvania* to this effect (*viz.*) That the Neceſſity of *ſtrictly* conforming themſelves to the Powers and Authorities contained in their Commiſſion, and that the leaſt Variation therefrom would render their Proceedings ineffectual and void, being delivered at their laſt Meeting for ſettled Law, and conſequently, a Rule to their Behaviour, by the Commiſſioners on the Part of *Penſilvania*, when they the Commiſſioners had proceeded
470 ſo far as to come to the Conſideration of the Place where the Centre of the Compaſs or Circle about *Newcaſtle* ſhould be fixed, it was found that no particular Spot, Place or indivi-
ſible Point, was appointed, either by the Articles of Agreement, or Commiſſion; and, it being certain, that the Difference of Place for ſuch Centre, in the ſeveral Parts of the Town of *Newcaſtle* (which was large) and would make a great Alteration in the Favour, or Diſfavour, of one or other of the Proprietaries, they thought themſelves, by the above
471 Doctrine, not at liberty either to exceed their Powers, by placing a Centre in what Part of the Town of *Newcaſtle* they pleaſed, ſince no Power was given to them for that pur-
poſe, and that, by fixing ſuch Centre, they muſt, neceſſarily, vary from their Powers, in a Matter very material and eſſential, for the Intereſt, or Diſadvantage, of one or other of their Principals; That theſe Reaſons put them, the Commiſſioners of *Maryland*, under a Neceſſity of deſiring ſome Satisfaction, of them the Commiſſioners of *Penſilvania*, be-
472 fore they made *any further Steps*, which they, the Commiſſioners of *Penſilvania*, having not given, in the Apprehenſions of the Commiſſioners of *Maryland*, at their laſt Meeting, the Commiſſioners of *Maryland* hoped that, in this Diſtance of Time, the Commiſſioners of *Penſilvania* had ſo well conſidered that Point as to remove the Impediment. The Commiſſioners of *Penſilvania* anſwered, that *they* thought the Reaſon of the laſt Adjournment to be, that the Commiſſioners of *Maryland* might receive further Authorities or Di-
rections *from the Lord Baltimore*, who was then ſhortly expected in *Maryland*: That the Nomination of a Centre was not neceſſary for the running the Circle, and that only a
473 Segment of the Circle was neceſſary to be run; That they were informed and adviſed, by Mathematicians, that a Circle might be run, without fixing a Centre; and that, there-
fore, this Circle, or a Segment thereof, may be run, without a Centre, as directed by the ſecond Article, which only directs a Circle, or ſo much as is neceſſary to be run, without ta-
474 king notice of a Centre: That tho' the Point or Spot in the Map was not exact, ſo as to fix a poſitive Centre, yet, it was directory; That the Rule, of not varying from their Power, was right and true, but that they thought this fixing a Centre was *no Variation* from their Powers, ſince no Centre was mentioned or ſpecified to be in any particular Place; and that they had all the Power of fixing a Centre which either the King, Duke of *York*, Lord *Baltimore*, or Mr. *Penn*, ever had. To this, the Commiſſioners of *Maryland* re-
475 plied, that they could not conceive how this Circle, or a Segment thereof, could be run, without a Centre in ſome Part of the Town of *Newcaſtle*, which was large, and capable of many Centres, to the Advantage, or Diſadvantage, of one or other of the Proprietaries; That it was true the ſecond Article does not mention a Centre, and therefore, the Doubt was raiſed, ſince no Power was given to fix a Centre: That they were glad to find the Commiſſioners then receded from the Map, or Spot in the Map, which, at their for-
476 mer Meeting, had been urged as a Point for the Centre of the Circle, which the Commiſſioners of *Maryland* then conceived, and ſtill imagine, impoſſible to apply to any Spot or Place in the Town of *Newcaſtle*, with any Probability of Truth: That they thought *aſſuming* a Power, not given by the Articles and Commiſſion, as unwarrantable and fatal to their Proceedings, as what the Commiſſioners of *Penſilvania* called *varying* from their Powers; That even, ſuppoſing, for Argument's ſake, that the Duke of *York*, Lord *Bal-*
477 *timore*, or Meſſ. *Penns*, had ſufficient Power to fix a Centre, yet the Commiſſioners of *Maryland* did not apprehend ſuch Powers had been transferred to them the Commiſſioners; That the Lord *Baltimore*, or Meſſ. *Penns*, could not give any Power or Directions, further than, or contrary to, the Commiſſions and Articles; and, therefore, there was no Ne-
ceſſity of the laſt Adjournment for that purpoſe; that altho' the Commiſſioners of *Penſilvania* had not given any *ſatisfactory* Anſwer to the Doubt, relating to the Centre, yet, to
478 convince them that the Commiſſioners of *Maryland* had no other than an Intention to execute the Agreement, the Commiſſioners of *Maryland* were willing, for the preſent, to poſtpone a further Conſideration of the *Centre*, and to proceed to the *Nature* of the *Circle*, that there might be *as few* Obſtacles as poſſible to the Agreement; To which the Com-
miſſioners of *Penſilvania* conſenting, the ſecond Article was read, and his Excellency delivered the Senſe of the Commiſſioners of *Maryland*, to the Effect following, (*viz.*) That
479 the Commiſſioners, on both Sides, having, at their laſt Meeting, agreed to have the Deed of Feoffment for *Newcaſtle* produced, for their Direction in running out the Circle about the ſame, and that Deed having been produced accordingly, and a Copy of the ſame taken, ſo far as was judged neceſſary for that purpoſe, nothing remained for the Com-
miſſioners to do then, but, *to run out the Circle* according to that Direction: That the Words in the *Feoffment* are, "All that the Town of *Newcaſtle*, otherwiſe called *Delaware*,
480 "and all that Tract of Land, lying within the Compaſs or Circle of 12 Miles about the ſame:" That theſe Words plainly intend a *Circumference*, or circular Bound, of 12 Miles about, according to the *vulgar* and moſt commmon Uſe of the Word Circle; which Signification is, here, particularly determined, by this additional Term, *Compaſs* of 12 Miles about, and, indeed, nothing can be more common than to call the Compaſs, or Bounds about, the *Circle*, inſtead of the *Circumference*. Thus a Ring, or a Hoop, abſtracted
481 from the Area contained within, is called a *Circle*, and even Mathematicians often uſe *Circle*, and *Circumference*, as *ſynonymous* Terms; as when, from a Point given, they pro-
poſe to deſcribe a Circle; as alſo when, they ſay two Circles can only interſect each other in two Points, they mean two Circumferences, and not two Circles, in which laſt Caſe the Propoſition would be falſe: That thus, the uſual Acceptation of the Word Circle, both with the Vulgar and Mathematicians, is to denote a Ring, or Hoop, or Circumference.
482 To which Senſe the very Words of the *Feoffment* ſtrictly confine it, by the Term *Compaſs*, with the additional expletive Particle, *about*. That yet, to ſhew more clearly how im-
poſſible it is to put that Conſtruction upon the Words of the Feoffment which the Commiſſioners of *Penſilvania* inſiſt upon, it may be ſuppoſed, for Argument's ſake (tho' the Tract is otherwiſe) that a Circle, or Compaſs of 12 Miles about, has the ſame Signification with a 12 Miles Circle, which laſt Phraſe is liked much better by the Gentlemen of *Penſilvania*
483 than the other, as thought more for their Advantage, yet, even in that Caſe, it would only denote a Circle whoſe Diameter is 12 Miles; for Circumferences, Circles and Spheres, are always denominated and proportioned by their Diameters, Squares of their Diameters, and Cubes of their Diameters; but, never, by their Radii, unleſs ſuch particular Signi-
fication is ſpecified: That a four-foot Wheel is underſtood, by all Mankind, to mean a Wheel which has four Feet for its Diameter: If the Commiſſioners for *Penſilvania* know any four-foot Circle, whatſoever, that has a Diameter of eight Feet, the Commiſſioners for *Maryland* hope they would do them the Favour to produce it for their Satisfaction,
484 otherwiſe, they cannot allow them that, a twelve Mile Circle about *Newcaſtle* muſt mean a Circle where Diameter (by a new Way of Reckoning hitherto unheard of) is 24 Miles, even tho' the Commiſſioners for *Maryland* ſhould be ſo very complying as to allow a Circle or Compaſs of 12 Miles about to mean the ſame thing with a 12 *Miles Circle*. That
485 the Commiſſioners for *Penſilvania* may well allow the Commiſſioners for *Maryland* to call this Meaning of the Commiſſioners for *Penſilvania* a new Way of denominating and pro-
portioning Circles, ſince Mr. *Penn*, as well as the Lords of the Council in 1685, ſeem wholly unacquainted with it, which could not well have happened if it had been then in-
vented; Thoſe Lords, however willing they were to give the full Extents to that Circle in favour of the King, never thought of its having a Radius of 12 Miles from *Newcaſtle*,
486 quite croſs the Peninſula to the Bay of *Cheſapeak*, but contented themſelves (and it appears that Mr. *Penn* was likewiſe greatly contented) with an Order to the following Effect (*viz.*) That, for avoiding further Differences, the Tract of Land, lying between the River and Bay of *Delaware* and the Eaſtern Sea on the one Side, and *Cheſapeak* Bay on the other Side, be divided into equal Parts, by a Line from the Latitude of Cape *Hinlopen* to the 40th Degree of Northern Latitude, and that one Half thereof, lying towards
487 the Bay of *Delaware* and the Eaſtern Sea, be adjudged to belong to his Majeſty, and that the other Half remain to the Lord *Baltimore*, as comprized within his Charter: That no body ever thought this Order of Council had the leaſt Degree of Partiality in favour of Lord *Baltimore*; on the contrary, it is well known how much he thought himſelf ag-
grieved by it, and how deſirous Mr. *Penn* was to rely upon it, avoiding, by all manner of ways, to have his Cauſe reheard by any other Council; and it is to be preſumed the
488 preſent Meſſ. *Penns*, likewiſe, know their Intereſt too well to deſire the Affair to come into Council, even at this time, when the moſt fair and equitable Deciſion might be ſo juſtly expected that it can be no Objection that at the End of the Article which directs the running out of the Circle mentioned in the Deed of Feoffment, it is added at 12 Miles *Diſtance* from *Newcaſtle*; for the Intention of both Proprietaries being plainly, without any Manner of Doubt, to run out the above mentioned Circle *and no other*, beſides the very Article
489 it ſelf obliging both Parties to do the ſame, thoſe Words cannot, poſſibly, have any Operation, unleſs they ſhould ſet the Article wholly aſide for their flat Contradiction to the other Part of the Article and the whole Tenor of the Agreement; that this being the true State of the Caſe, the Commiſſioners for *Maryland* deſired to have a plain, and direct, An-
490 ſwer, from the Commiſſioners for *Penſilvania*, whether they will run out the Circle about *Newcaſtle* as directed by the Deed of *Feoffment*, or, if they pointively inſiſt to run out no other but one with a Diameter of 24 Miles? To this, the Commiſſioners of *Penſilvania* anſwered, That the Commiſſioners were not left to *their* Diſcretions in the Execution of this Article, with regard to the *Nature* of the *Circle*, for they were obliged to run it at 12 Miles *Diſtance* from *Newcaſtle*, and could not run *any other*: That the Circle ought to
491 be underſtood by the Commiſſioners in the Senſe the King by his Deed to the Duke of *York*, and Charter of *Penſilvania*, and the Duke of *York* by his Deed to Mr. *Penn*, and Meſſ. *Penns*, and the Lord *Baltimore*, underſtood it, and that *they* underſtood as a Circle with a 12 Miles Radius *from the Town* of *Newcaſtle*: To which the Commiſſioners of *Maryland* replied that, by the Tenor and Purport of the Agreement, it appeared, that the Lord *Baltimore* and Meſſ. *Penns* did not intend *any* Circle to be run, *different* from that mentioned and deſcribed in the Deed of *Feoffment*, and that, if any Words were inſerted in the ſecond Article, which contradicted the Deſcription of the Circle in the Deed of
492 *Feoffment*, *ſuch Words* muſt either be *rejected*, or create a Contradiction which would deſtroy the whole Article; That the Intention of the Parties would not reconcile Contradic-
tions, or make a Circle of four Miles or twelve Miles Diameter, by any Expreſſions, a Circle of twenty-four Miles Diameter, or twelve Miles Radius; That as the Parties did in-
493 tend *only* the Circle in the Deed of *Feoffment* they the Commiſſioners of *Maryland* were ready and willing to determine it to be ſuch a Circle, and proceed accordingly; And that the Charter of *Penſilvania* could not be ſaid to explain the Circle in the Deed of Feoffment, ſince ſuch Charter was made *before* that Deed, and no Relation or Reference had to the Charter, by that Deed, which might rather prove they were *two diſtinct* Circles, than the ſame: And the Commiſſioners of *Maryland* further offered, to the Commiſſioners
494 of *Penſilvania*, that, as this Point was a Matter properly within the Learning of Mathematicians, in order by any means to ſatisfy each other, and remove all Doubts, to conſult and hear what the Mathematicians thought in relation to ſuch Circle, and that the Mathematicians ſhould deliver their Opinions, in the Preſence of each other, before the Com-
miſſioners, and argue thereupon, at Five of the Clock in the Afternoon; To which Time and Place aforeſaid the Commiſſioners adjourned. At which time, Commiſſioners being met, the Commiſſioners for *Penſilvania* acquainted the Commiſſioners for *Maryland* that one of their principal Mathematicians, with whom they intended to conſult, was ſo ill of
495 the Gout as he could not, that Afternoon, attend, and deſired the Matter, and Queſtion thereupon, might be reduced into Writing, and that, if he could not attend the next Day, yet, the Commiſſioners for *Penſilvania* would procure his Anſwer in Writing; the Commiſſioners of *Maryland*, that no Time might be loſt in forwarding the Execution of the Agreement, offered to the Commiſſioners of *Penſilvania* to go with them, that Afternoon, to the Place where their Mathematician was, and to carry their own Mathema-
ticians to the ſame Place; which the Commiſſioners of *Penſilvania* (for Reaſons only known to themſelves) refuſed.

496 Whereupon the Commiſſioners of *Maryland* delivered, to the Commiſſioners of *Penſilvania*, a Writing, to the Effect following, *viz.*

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After

After which, both the Commiſſioners agreed to adjourn until 10'Clock on *Saturday* Morning, being the 3d Day of *February* 1732, at the ſame Place.

3. According to which Adjournment the Commiſſioners for *Maryland* attended, at the Place aforeſaid, where they being, and no Commiſſioners on the Part of *Penſilvania* coming, the Commiſſioners for *Maryland* ordered an Officer (as they believe) belonging to the Court-Houſe, and there then waiting, to go and acquaint the Commiſſioners of *Penſilvania*, that they the Commiſſioners of *Maryland* were there, ready to proceed on Buſineſs, and expected the Commiſſioners of *Penſilvania* would *immediately* come and join with them, and that it was long after the Hour appointed, or to that effect; which Officer, as the Commiſſioners for *Maryland* have good Reaſon to believe, immediately went and informed the Commiſſioners for *Penſilvania* accordingly: That, ſome time after that Meſſage, Meſſieurs *Norris* and *Preſton* came, on the Part of *Penſilvania*, and, ſome time after them, Mr. *Steel*, another Commiſſioner for *Penſilvania*, came; whereupon his Excellency acquainted the Commiſſioners for *Penſilvania* that they, the Commiſſioners of *Maryland*, had waited, a conſiderable Time paſt the Hour appointed, for the Commiſſioners of *Penſilvania*; but that, as there was then a Quorum ſufficient to proceed to Buſineſs, he deſired there might be no farther Delay, for that they, the Commiſſioners of *Maryland*, had come a great way from home on that Affair, and that the Mathematicians, who had been conſulted with by the Commiſſioners of *Maryland*, and were then attending the Room, were obliged to return into *Maryland* (being 30 Miles at leaſt) that Day, eſpecially the Reverend Mr. *Hugh Jones*, to attend his *Cure* on the *Sunday*, being the next Day; and thereupon his Excellency produced a Paper, ſigned by the ſaid Mr. *Hugh Jones*, formerly Mathematical Profeſſor in the College of *Virginia*, and *William Rumſey*, with the following Contents (*viz.*)

Quære, What Circle is underſtood by theſe Words (*viz.*) Enfeoff and confirm, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever, all that the Town of *Newcaſtle*, otherwiſe called *Delaware*, and all that Tract of Land, lying within the Compaſs, or Circle, of 12 Miles about the ſame.—*Anſwer*,—By the Term, *Circle*, is underſtood *either a Circumference*, or elſe, an Area; and, as the Word is here expreſſed, it is limited to a Circumference or Periphery, here called Compaſs about; the Diameter of which Circle, or Compaſs about, is ſomewhat *leſs* than Four Miles.

Which Paper ſome of the Commiſſioners for *Penſilvania* read, but, immediately, Mr. *Steele* went away out of the Room, ſo that there was not a Number of Commiſſioners, on the Behalf of *Penſilvania*, ſufficient to authoriſe any Proceedings. The Commiſſioners of *Maryland* waited, ſome time, for the Return of Mr. *Steele*, or coming of ſome other of
502 the Commiſſioners of *Penſilvania*, there being then, in the Town of *Newcaſtle*, Mr. *Norris*, *Preſton*, *Hamilton*, *Steele* and *Charles*; but none other coming to make a ſufficient Number on the Part of *Penſilvania*, his Excellency informed Mr. *Norris*, that it was ſtrange the Commiſſioners for *Penſilvania* did not meet, to proceed according to the Adjournment; and that, if they delayed coming *any* longer, the Commiſſioners of *Maryland* ſhould think themſelves obliged to leave the Place, and proteſt againſt the Non-Attendance of
503 the Commiſſioners of *Penſilvania*; Mr. *Norris* acquainted the Commiſſioners of *Maryland*, that Mr. *Hamilton* was ſo ill, with the Gout, that it was unlikely he could be able to attend: To this his Excellency offered to go down to Mr. *Hamilton*, if the Commiſſioners for *Penſilvania* deſired; which not being done, the Commiſſioners for *Maryland* waited *ſome time* longer, with their Mathematicians, in the above-mentioned Place appointed, in hopes of the coming of ſome other of the *Penſilvania* Commiſſioners; but none coming, nor any Meſſage brought to the Commiſſioners of *Maryland* of their coming, his Excellency again repeated to Mr. *Norris* the Neceſſity the Commiſſioners of *Maryland* ſhould
504 think themſelves under of leaving the Place, and proteſting againſt the Non-Attendance of the Commiſſioners of *Penſilvania*, if a ſufficient Number did not, in a ſhort Time, come. That after the Commiſſioners of *Maryland* had ſtayed ſome time longer, and that, at leaſt, an Hour had expired ſince the Commiſſioners of *Maryland* gave notice to the *Penſilvania* Commiſſioners of their being ready to proceed to Buſineſs, and their Expectation and Deſires of the Attendance of the *Penſilvania* Commiſſioners for that Purpoſe; and that
505 upon comparing the Watches of *Maryland* Commiſſioners with thoſe of the *Penſilvania* Commiſſioners, it appeared that it was between and 35 Minutes paſt 12, and that, conſequently, the Appointment, or Adjournment, for *that* Morning, was at end: His Excellency, with the other Commiſſioners of *Maryland* then preſent, (*viz.*) *Charles Calvert*, *Matthew Tyghlman Ward*, *Benjamin Taſker*, *Michael Howard* and *Edmund Jennings* declared that they had been there attending, according to the Adjournment and
506 Appointment aforeſaid, to proceed on Buſineſs, but that a ſufficient Number of Commiſſioners for *Penſilvania* had wilfully neglected to be and continue there, according to the Adjournment aforeſaid, to proceed according to the Commiſſion and Articles of Agreement; and that, as the Commiſſioners of *Maryland*, not only from the aforeſaid Behaviour of the Commiſſioners for *Penſilvania*, but alſo from the Declaration at their Meeting in the Afternoon of the former Day by one of the *Penſilvania* Commiſſioners, (*viz.*) That the Affair to be tranſacted by the Commiſſioners would not end here, but be carried into *England*, or to that Effect, were perſuaded the Commiſſioners for *Penſilvania* had no
507 other Intent than to break off any further Proceedings towards the Execution of the Agreement; for theſe Reaſons, the Commiſſioners of *Maryland* proteſted, in the Place aforeſaid, before Mr. *Preſton* (Mr. *Norris* having, for ſome time before, left the Room) and Mr. *Jones* and *Rumſey*, againſt the Non-Attendance aforeſaid of the Commiſſioners of *Penſilvania*, reſerving all Benefit and Advantage which might or could accrue to the Lord *Baltimore*, by Reaſon of the Default and Non-Attendance aforeſaid of the *Penſilvania*
508 Commiſſioners; after which the Commiſſioners departed from the Place appointed, and their Mathematicians went forthwith to *Maryland*.

Upon the Return of the *Maryland* Commiſſioners, and Repreſentation of the Matters aforeſaid to the Lord Proprietary of *Maryland*, his Lordſhip by Letter dated the Day of acquainted the Governor of *Penſilvania*, one of the Commiſſioners of *Penſilvania*, to the Effect following (*viz.*) that his Arrival in the Province of *Maryland* afforded him an Opportunity of taking more than ordinary Care that his Commiſſioners, in Compliance with the Methods propoſed between Meſſieurs *Penns* and himſelf, ſhould
509 be very punctual in meeting the Commiſſioners of *Penſilvania* at *Newcaſtle* the Firſt of that Inſtant, purſuant to the Adjournment jointly made by the Commiſſioners on both Sides the 3d of laſt *November*; for this purpoſe he thought fit to nominate a new Commiſſioner, to ſupply the Place of an infirm one; and for the ſame Reaſon his Commiſſioners, notwithſtanding the unuſual Extremity of the preſent Seaſon, and the Diſtance of the Place, were ſo aſſiduous in the Journeys as for ſome of them to arrive at *Newcaſtle*, many Days,
510 and all of them, before the Day appointed: That this Behaviour, on one Part, might juſtly challenge the ſame ſtrict Obſervance from the Commiſſioners of *Penſilvania*, and he ſhould ſtill have depended on their unwillingneſs of being guilty of any Infraction if, on the ſudden Return of his Commiſſioners, he had not been informed that the Commiſſioners of *Penſilvania* ſo little obſerved the Adjournment made by the Commiſſioners on both Sides, of their Meeting at Ten o'Clock on *Saturday* the 3d Inſtant in the Morning, purſuant
511 to their *accuſtomed* way of Proceeding, as that not only one of them left the Place of Meeting, abruptly, at the very Inſtant his Commiſſioners deſired to proceed on Buſineſs, whereby there was not a ſufficient Number preſent: But alſo, that the others (though ſent for, and repeated Declarations made by his Commiſſioners of breaking up the Meeting for their Non-Attendance) ſeemed wilfully, and obſtinately, to neglect attending that Morning, which ended the Appointment made by the joint Commiſſioners on *Friday* the 2d Inſtant in
512 the Afternoon; that he forbore to mention many other Circumſtances, reported to him by his Commiſſioners, and which too plainly ſhewed a Deſign in the Commiſſioners of *Penſilvania* to violate the Meaſures entered into in that particular; that, was he inclinable to make a ſtrict Uſe of this failure, nay voluntary one, on the Side of the *Penſilvania* Commiſſioners, he might not only diſregard any further Notice, but intitle himſelf immediately to the Forfeiture incurred by the Failure of the Commiſſioners of *Penſilvania*; but he
513 thought himſelf not a little fortunate by his being in his Province at that Juncture, that he might have an Opportunity of doing, in that Affair, what his Commiſſioners, perhaps, could not reconcile to themſelves the Liberty of, which was to recede, in ſome meaſure, from the Advantage he might claim from the Proceeding of the Commiſſioners of *Penſilvania*: Upon this Account he was willing, and did then offer, and had accordingly given Directions to his Commiſſioners, that they ſhould meet the Commiſſioners of *Penſilvania*,
514 on the Firſt *Monday* in *May* then next, at the Town of *Joppa*, in *Baltimore* County, in the Province of *Maryland*; but, with this Salvo, of all the Right, Benefit and Advantage, he might claim from the Non-Attendance or Failure of the *Penſilvania* Commiſſioners on the 3d Inſtant in the Morning, according to the then laſt Adjournment: That he thought himſelf obliged to name the Place at *Joppa*, not only becauſe Commiſſioners had attended, twice, at *Newcaſtle*, but alſo, by Reaſon of a Behaviour of the *Penſilvania* Commiſſioners, to ſome of his at *Newcaſtle*, which, poſſibly, without having the Command over the Inhabitants, would never have been attempted; and, to prevent any Apprehen-
515 ſion of the like Conduct from his Commiſſioners, he aſſured him he ſhould give a ſtrict Charge to the contrary.

1733, Mar. 28. After which, the Commiſſioners of *Penſilvania* ſent to the Commiſſioners of *Maryland* the following Letter (*viz.*) Gentlemen, Five of us, the under-written Commiſſioners, appointed by virtue of a Commiſſion from the Honourable the Proprietaries of *Penſilvania*, for executing certain Articles of Agreement concluded between them and the Right
516 Honourable *Charles* Lord *Baltimore*, Proprietor of the Province of *Maryland*, touching the Limits of the ſaid Provinces and Counties of *Newcaſtle*, *Kent* and *Suſſex*, on *Delaware*, having met the like Number of you, the Commiſſioners appointed by the ſaid Lord *Baltimore*, at *Newcaſtle*, on the 1ſt Day of *February* laſt, purſuant to our former joint Adjournment, and continued together till the 3d Day of the ſame Month, when, from a pretended Failure, by reaſon of a Quorum of us not appearing at the preciſe Hour in the Forenoon
517 of that Day to which we ſtood adjourned, you thought fit to withdraw yourſelves from the Court-Houſe of the ſaid Town of *Newcaſtle*, the Place of our Meeting; and, notwithſtanding you and we met together, *ſeveral times* afterwards, in the ſame Day, yet, inſiſting upon that ſuppoſed Failure, you refuſed, as Commiſſioners, to join with us in the Execution of our reſpective Commiſſions, by which Refuſal we were obliged to ſerve you with notice to meet us the ſame Evening at Six o'Clock, at the Court-Houſe of *Newcaſtle*
518 aforeſaid, which you neglecting to do, we, the ſame Evening, ſerved a Quorum of you, acceſs being *deſired* us to others of your Number, with notice to meet us, at the Place aforeſaid, on *Monday* the 5th Day of the ſaid Month; which, likewiſe, you thought fit ſo little to regard, that, leaving *Newcaſtle* the Day before, you, again, neglected to meet us at the Time and Place by the ſaid Notices appointed; but we, the underwritten Commiſſioners, notwithſtanding the Diſregard ſhewn to our former Notices, being ſtill willing
519 to proceed on the Buſineſs which now lies before the Commiſſioners jointly (*viz.*) the Execution of the ſecond Article of the ſaid Agreement, which follow in theſe Words, that there ſhall be the ſaid Circle, mentioned in the ſaid Charter for *Penſilvania*, and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as is requiſite) drawn and marked out at the 12 Miles Diſtance from the Town of *Newcaſtle* (which 12 Miles ſhall be 12 *Engliſh* Statute Miles) do hereby give you, and each of you, notice, that we, or a
520 ſufficient Quorum of us, will attend, at the ſaid Town of *Newcaſtle*, on *Delaware*, which, by the joint Conſent of the Commiſſioners on both Sides, hath been acknowledged to be the only Place proper for Beginning the Buſineſs immediately before us, on the 16th Day of *April* next enſuing, there to meet and join with you agreeable to the Directions of our reſpective Commiſſions, in proceeding to draw and mark out the ſaid Circle accordingly: Given under our Hands, at *Philadelphia*, the 28th Day of *March* 1733.

521 By the Return of the *Meſſenger*, who brought the above Letter, *Maryland* Commiſſioners ſent to the *Penſilvania* Commiſſioners the following Notice (*viz.*)

April 3. Gentlemen, we the under-written Commiſſioners, appointed by virtue of a Commiſſion from the Right Honourable the Lord Proprietary of *Maryland*, for executing certain Articles of Agreement between his Lordſhip and the Proprietaries of *Penſilvania*, met Five of you the Commiſſioners, appointed by the ſaid Proprietaries of *Penſilvania*, at *Newcaſtle*, on the 1ſt Day of *February* laſt, purſuant to a former joint Adjournment of the Commiſſioners on both Sides, and continued together till the 3d Day of the ſame Month;
522 when, contrary to that Readineſs and Diſpatch which might reaſonably be expected from the Commiſſioners of *Penſilvania*, you, the ſaid Five Commiſſioners, then in the Town of *Newcaſtle*, not only neglected, but even, after repeated Inſtances made by us to two of you to procure a Number or Quorum of you the Commiſſioners ſufficient to proceed in
523 the Matter then before us, perſevered in not meeting us according to the aforeſaid Adjournment, in order to proceed to Buſineſs, although we were in the Room of the Court-Houſe until almoſt One of the Clock, which was between two or three Hours after the Hour appointed; this Failure, which ſeemed to be deſignedly made, juſtly gave us reaſon to be aſſured his Lordſhip the Lord Proprietary of *Maryland* might claim the Forfeiture: Upon Report to his Lordſhip of our Tranſaction, and Behaviour of the *Penſilvania* Commiſſioners towards us, although his Lordſhip was well ſatisfied with his Right to the Forfeiture, yet, to give you, Gentlemen, once more, an Opportunity of complying with the
524 Execution of the Agreement, his Lordſhip was pleaſed (under a Reſervation of his Benefit to the Penalty) to offer, by a Letter dated *February* the 15th, to his Honour the Governor of *Penſilvania*, a Meeting between his Commiſſioners and you, Gentlemen, Commiſſioners of *Penſilvania*, to be had, on the Firſt *Monday* of *May* next, at the Town of *Joppa*, in *Baltimore* County, which we have Direction from his Lordſhip ſtill to obſerve, and we, or a Quorum of us, ſhall punctually attend at that Time and Place. We preſume his
525 Lordſhip had good Reaſons for the Appointment of *that* Place, beſides that which we now obſerve of no Neceſſity of meeting at *Newcaſtle*, rather than any other Place, before the Differences in our Opinions and Judgments were adjuſted. Given under our Hands at *Annapolis*, this 3d Day of *April* 1733.

1733. May 7. On *Monday* the 7th Day of *May* 1733 the following Commiſſioners, on the Behalf of the Lord Proprietary of *Maryland* (*viz.*) the Honourable *Samuel Ogle* Eſq; *Benjamin Taſker*
526 and *Edmund Jennings*, Eſqs; purſuant to their Appointment, met at the Town of *Joppa*, in *Baltimore* County, in the Province of *Maryland*, the following Commiſſioners, on the Behalf of the Proprietaries of *Penſilvania* (viz.) *Iſaac Norris*, *Andrew Hamilton*, *Samuel Preſton*, *Robert Charles* and *James Steele*, Eſqs;

At which Meeting the Commiſſioners of *Maryland* obſerved, that a Gentleman, who was not appointed a Commiſſioner, was preſent; but the Commiſſioners of *Penſilvania*
527 informing the Commiſſioners of *Maryland* that that Gentleman was a *Penſilvanian*, the Commiſſioners of *Maryland* thought it reaſonable that another Gentleman of *Maryland* might alſo be preſent; which being agreed to by the Commiſſioners of *Penſilvania*, Mr. *John Beal*, of the City of *Annapolis*, was called in, who, together with the *Penſilvanian* Gentleman, named *Jeremiah Langhorn*, were preſent at the Debates of the aforeſaid Commiſſioners at *that* Meeting.

Then the Commiſſioners of *Maryland* proceeded to take notice of the laſt Default of the Commiſſioners of *Penſilvania* attending at the Town of *Newcaſtle* on the Day of
528 *February* 1732, purſuant to the joint Adjournment; which the Commiſſioners of *Penſilvania* endeavoured to excuſe. The Commiſſioners of *Maryland* then mentioned the Difference, and Doubts, which had aroſe, in the Judgments of the Commiſſioners on both Sides, relating to the Intention of the Proprietaries, and Interpretation of the ſecond Article, and deſired to know if they, the Commiſſioners of *Penſilvania*, had informed themſelves with any Arguments, or provided any Opinions of Mathematicians, to ſatisfy the Com-
529 miſſioners of *Maryland* they had put a wrong Interpretation on that Article? To which the Commiſſioners of *Penſilvania* anſwered, they had no Occaſion for any Opinion of Mathematicians, but they were to proceed, as they were directed by the Words of the Article; The Commiſſioners of *Maryland* urged, that the Article principally regarded the Circle mentioned in the Deed of Feoffment, and that the Words order that Circle to be run out; that another Part of the Article directs the Circle to be run out to be at 12 Miles
530 Diſtance from *Newcaſtle*; and, therefore, the Commiſſioners of *Maryland* conceived, and ſo informed the Commiſſioners of *Penſilvania*, that, if the Circle in the Deed of Feoffment ſhould prove a Circle of different Dimenſions or Diameter than thoſe of a Circle drawn at 12 Miles Diſtance from *Newcaſtle*, one of theſe Conſequences muſt follow; either that the Part of the ſecond Article which directs the Circle in the Deed of Feoffment to be run muſt be rejected, or, that the Part of that ſecond Article which directs the Circle of 12 Miles Diſtance from *Newcaſtle* muſt be rejected, or, that the whole Article muſt be ſet aſide, as not capable of being executed by reaſon of the Contradiction: The *Maryland*
531 Commiſſioners further repreſented to the Commiſſioners of *Penſilvania*, that it was not reaſonable to reject the Words which directs the Circle mentioned in the Deed of Feoffment to be run, becauſe that Deed was the only Foundation (if any) of Meſſ. *Penns* Right to *Newcaſtle*, and conſequently, the principal Intention of the Proprietaries in the Agreement was confined to that Circle or Right, and not to any other whatever. To this the Commiſſioners of *Penſilvania* anſwered, that they thought the Direction of a Circle of 12 Miles
532 *Diſtance from Newcaſtle* obliged them to run that Circle, and no other, and that the Proprietaries ſo underſtood it.

Therefore

Therefore the *Maryland* Commiſſioners, in order to know certainly whether the *Penſilvanian* Commiſſioners would agree to any reaſonable and feazible Conſtruction of the ſecond Article, and by that Means enable the Commiſſioners to proceed to an Execution, propoſed the following Queſtion (*viz.*) Whether the Commiſſioners on the Part of *Penſilvania* will run out any *other* Circle about the Town of *Newcaſtle*, than a Circle of 12 Miles Diſtance from the Town of *Newcaſtle*?

533 To which the Commiſſioners of *Penſilvania* returned, in Writing, the following Anſwer (*viz.*) By the Articles of Agreement, between the Proprietaries of *Penſilvania* and Counties of *Newcaſtle*, *Kent* and *Suſſex*, on *Delaware*, on the one Part, and the Lord *Baltimore*, Proprietary of *Maryland*, on the other Part, it is injoined that there ſhall be the ſaid Circle mentioned in the Charter of *Penſilvania* and Deed of Bargain and Sale, or Feoffment, of *Newcaſtle* (or ſo much thereof as is requiſite) drawn and marked out at 534 the 12 Miles Diſtance from the Town of *Newcaſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles: Therefore, in Anſwer to the above Queſtion, we, the Commiſſioners of *Penſilvania*, do ſay, that we are ready, and offer ourſelves, to run out the ſaid Circle, mentioned in the ſaid Charter of *Penſilvania* and Deed of Bargain and Sale, or Feoffinent, of the Town of *Newcaſtle*, at the Diſtance of 12 Miles from the ſaid Town of *Newcaſtle*, according to the ſaid Articles of Agreement, and we do not conceive we are directed 535 to run any other Circle than the ſaid Circle mentioned in the Articles aforeſaid.

This Anſwer the *Maryland* Commiſſioners looked upon as evaſive, and deſigned to avoid any Agreement with the Commiſſioners of *Maryland*, ſince the Commiſſioners of *Maryland*, by that Anſwer, were not capable of judging what ſort of a Circle the Commiſſioners of *Penſilvania* would have run about *Newcaſtle*, in caſe any Difference ſhould be between the Cirlce in the Deed of Feoffment, and the Circle of 12 Miles from *Newcaſtle*.

536 After which the Commiſſioners of *Penſilvania* propoſed to the Commiſſioners of *Maryland* the following Queſtion (*viz.*) By the Articles of Agreement made and concluded between the Proprietaries of *Penſilvania* and the Counties of *Newcaſtle*, *Kent* and *Suſſex*, on *Delaware*, on the one Part, and the Lord Proprietary of *Maryland* on the other Part, it is agreed that there ſhall be the ſaid Circle, mentioned in the Charter for *Penſilvania* and Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, or ſo much thereof as is 537 requiſite, drawn and marked out at the Diſtance of 12 Miles from the Town of *Newcaſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles: Whereupon we, the Commiſſioners of *Penſilvania*, do require you, the Commiſſioners of *Maryland*, as we have long and frequently done, to join with us in drawing and marking out the ſaid Circle, at the Diſtance of 12 Miles from the Town of *Newcaſtle*, as by the ſaid Articles is agreed and directed, and then to proceed to the running, marking and laying out the other Lines in the 538 ſaid Articles directed and agreed to be run, marked and laid out, as in that Agreement is directed to be done, and, if you refuſe to do, we deſire you will ſatisfy us why you will not?

To which the Commiſſioners of *Maryland* returned, in Writing, the following Anſwer (*viz.*) In Anſwer to the above Queſtion, We, the Commiſſioners of *Maryland*, ſay, that the principal Intentions and Directions of the Proprietaries in the ſecond Article appear, by the whole Tenor of the Agreement, and Commiſſion to us directed, to be, that no 539 other Circle than the Circle mentioned, deſcribed in the Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, or ſo much thereof as is requiſite, ſhall be drawn and marked out: This Circle, ſo mentioned and deſcribed in the ſaid Deed of Bargain and Sale, or Feoffment, we, the ſaid Commiſſioners of *Maryland*, have never refuſed to draw and mark out, 540 but do deſire you, the Commiſſioners of *Penſilvania*, to agree with us in drawing out the ſaid Circle, ſo mentioned and deſcribed, or ſo much thereof as is requiſite: And we, the aforeſaid Commiſſioners of *Maryland*, further ſay, that we are ready, and willing to proceed to Cape *Hinlopen*, in Order to draw a due Eaſt and Weſt Line a-croſs the Peninſula, as directed by the third Article.

After which, the Commiſſioners of *Maryland* delivered, to the Commiſſioners of *Penſilvania*, a Propoſal in the following Words, (*viz.*) We the Commiſſioners of *Maryland*, 541 offer and propoſe, to the Commiſſioners of *Penſilvania*, to run out a Circle whoſe Circumference is 12 Miles about *Newcaſtle*, for that the Commiſſioners of *Maryland* are informed, and convinced, by the Mathematicians (with whom they have adviſed) that the Circle deſcribed and mentioned in the Deeds of Bargain and Sale, or Feoffment, about *Newcaſtle*, can denote or mean no other than ſuch a Circle whoſe Circumference is 12 Miles, and the Commiſſioners of *Maryland* further offer, to the Commiſſioners of *Penſil-* 542 *vania*, to hear any Arguments, or receive any Information, from other Mathematicians, in caſe the Commiſſioners of *Penſilvania* differ from the Commiſſioners of *Maryland* in Judgment about the ſaid Circle.

To which the Commiſſioners of *Penſilvania* returned the following Anſwer, (*viz.*) In Anſwer to the above Propoſition We, the Commiſſioners of *Penſilvania*, do ſay, that the Duty required of the Commiſſioners of either Side is to run, mark and lay out the ſaid Part of a Circle, and the ſaid Lines, purſuant to the Articles of Agreement, and when 543 ſo run and marked, to return ſuch a Plan and Survey as by the ſaid Articles is directed, and that we are fully convinced a Circle, whoſe *Circumference* is only 12 Miles about the Town of *Newcaſtle*, is not the Circle we are directed to run by the ſaid Articles, and we are alſo fully ſatisfied that the Circle mentioned in the Charter for *Penſilvania* and Deed of Bargain and Sale, or Feoffment of *Newcaſtle*, directed to be run by the Articles aforeſaid, is a Circle whoſe Radius is 12 Miles, and this is ſo plainly expreſſed by the Proprie- 544 taries, on both Sides, in the ſaid Articles, to be a Circle to be drawn at the *Diſtance* of 12 Miles *from the ſaid Town* of *Newcaſtle*, that we, the Commiſſioners of *Penſilvania*, do conceive ourſelves Warranted by the ſaid Articles to run ſuch a Circle *only*, which we are now ready and willing to do: And we further conceive that, as we have no need, ſo we have no Authority, to refer the Conſtruction of the Circle, mentioned in the ſaid Charter, Deed of Feoffment, and Articles of Agreement, to any Perſons whatſoever.

May 9. 545 Then the Commiſſioners, on both Sides, entered into this following Agreement, (*viz.*) *Joppa*, *May* the 9th 1733. This Day it is agreed, by the Commiſſioners on both Sides, that they, or a Quorum of each, ſhall meet, at the Houſe of *Iſaac Norris jun.* in *Philadelphia*, the 21ſt Day of this Inſtant *May*, with this Proviſo that, if the Commiſ- 546 ſioners on the Part of *Maryland* cannot with Conveniency, return from *Burlington*, ſo as to meet on that Day, then and in ſuch Caſe, the Commiſſioners of *Penſilvania* agree that, upon Notice given them, by the Commiſſioners of *Maryland*, of a Day to meet, at the Place aforeſaid, before their return to *Maryland*, the Commiſſioners on the Part of *Penſil-* *vania*, or a Quorum of them, will meet thoſe of *Maryland*, or a Quorum of them, at the Place aforeſaid, on the Day that ſhall be ſo appointed. And it is further agreed that, if 547 it ſhall ſo happen that, after the Meeting and Stay of the Commiſſioners of *Maryland* in *Philadelphia*, with the Commiſſioners of *Penſilvania*, or a Quorum of them, will meet thoſe of *Maryland*, or a Quorum of them, at the Place aforeſaid, on the Day that ſhall be ſo appointed; And it is further agreed that, if it ſhall ſo happen that, after the Meeting and Stay of the Commiſſioners of *Maryland* in *Philadelphia* with the Commiſſioners of *Penſilvania* one Day, they cannot readily agree upon an Adjournment, that then, the Commiſ- 548 ſioners of *Maryland* ſhall not be longer detained from returning to their reſpective Homes, they accepting of a Notice in Writing, to be delivered to any one of their Commiſſioners, to meet thoſe of *Penſilvania* at the Houſe of *Andrew Peterſon* in the County of *Newcaſtle*, on *Delaware*, the 18th Day of *June* next enſuing, in order to the running and mark- ing out the Lines according to the Articles of Agreement.

The Commiſſioners of *Maryland* not returning from *Burlington*, ſo as to meet on the 21ſt Day of *May* according to the ſaid Agreement, did, on or about the 25th of *May*,

May 25. 549 ſend the following Notice to the Commiſſioners of *Penſilvania*, *viz.*

Gentlemen, We, the Subſcribers, Commiſſioners appointed by the Right Honourable the Lord Proprietary, having not been able, with Conveniency, to return from *Burlington*, ſo as to meet you, the Commiſſioners appointed by the Honourable the Proprietaries of *Penſilvania*, on the 21ſt Day of this Inſtant *May*, do, purſuant to an Agreement made at 550 *Joppa* the 9th of this Inſtant *May*, hereby give you Notice that We, or a Quorum of Us, will meet you, or a Quorum of you, at the Houſe of Mr. *Iſaac Norris jun.* in this City of *Philadelphia*, on To-morrow, being *Saturday* the 26th Inſtant *May*, about 10 o'Clock in the Morning.

At which Time and Place a Quorum of the Commiſſioners, on both Sides, being met, the following Agreement for a further Adjournment was made, (*viz.*)

May 26. A Quorum of the Commiſſioners, on both Sides, being this 26th Day of *May* 1733 met, at the Houſe of *Iſaac Norris jun.* in *Philadelphia*, upon a Notice from the Commiſ- 551 ſioners on the Part of *Maryland*, to thoſe on the Part of *Penſilvania*, in purſuance of an Agreement made the 9th Day of this Inſtant at *Joppa* in the Province of *Maryland*, and it being repreſented, by the Commiſſioners on the Part of *Maryland*, that the Lord *Baltimore*, being in ſome ſhort time about to depart this Province of *Maryland* and to return to *Great* 552 *Britain*, it will be a great Inconveniency for them to meet in the Month of *June*, according to the former Agreement, for the Purpoſes mentioned in their reſpective Commiſſions, and it being further conſidered that the Months of *July* and *Auguſt* are very hot, and for that Reaſon render the running of Lines very troubleſome and unſafe at this Seaſon of the Year, the Commiſſioners, on the Part of *Penſilvania*, on the Conſiderations aforeſaid, do, therefore, agree with thoſe of *Maryland* to meet, at the Town of *Newcaſtle*, on *Dela-* 553 *ware*, on the 3d Day of *September* next, in order to the running and marking out the Lines according to the Articles of Agreement. Dated at *Philadelphia* the 26th Day of *May* 1733.

Sept. 3. *Newcaſtle*, *September* the 3d 1733. Whereas the Commiſſioners appointed, as well on the Part of the Proprietors of *Penſilvania*, as on the Part of the Lord Proprietor of *Mary-* *land*, for running, marking, laying out the Lines, Limits, and Bounds of the ſaid Provinces, &c. in purſuance of Articles of Agreement mutually concluded between the ſaid 554 Proprietors, having, for the Conveniency of the Gentlemen, Commiſſioners of *Maryland*, then attending the Lord *Baltimore*, met at *Philadelphia* the 26th of *May* laſt, did, then, adjourn to this Inſtant the 3d of *September*, at *Newcaſtle*, in Order to the running and marking out the Lines according to the Articles aforeſaid, and a Quorum of the ſaid Commiſſioners, on both Parts, being now met at *Newcaſtle*, in purſuance of the ſaid Adjournment, the Commiſſioners on the Part of *Penſilvania* do now acquaint thoſe of 555 *Maryland* that they are ready, with their Artiſts, to proceed immediately to the running and marking out the Circle mentioned in the Charter for *Penſilvania*, and Deed of Bar- gain and Sale, or Feoffment, of *Newcaſtle*, at the Diſtance of 12 Miles from the ſaid Town of *Newcaſtle*, as *the firſt thing* directed to be done by the Articles aforeſaid, con- cluded between the Proprietaries of the ſaid reſpective Provinces; and, as a great Part of the Term, appointed for executing the ſaid Articles purſuant to our reſpective Commiſſions, is now elapſed, without any Progreſs made therein, the ſaid Commiſſioners of *Penſilvania* do earneſtly deſire and preſs the Commiſſioners of *Maryland* to join with them in the 556 ſaid Work, that no more time may be loſt. *Iſaac Norris*, *Sam. Preſton*, *J. Logan*, *A. Hamilton*, *James Steele*, *Robert Charles*.

Sept. 4. *Newcaſtle* the 4th of *September* 1733. Whereas the Commiſſioners appointed, as well on the Part of the ſaid Lord Proprietary of *Maryland*, as on the Part of the Proprietors of *Penſilvania*, for running, marking, and laying out the Lines, Limits and Bounds of the ſaid Provinces, &c. in purſuance of Articles of Agreement mutually concluded between the ſaid Proprietaries, having, for the mutual and joint Conveniency of both the ſaid Commiſſioners, met at *Philadelphia* the 26th Day of *May* laſt, did then adjourn to 557 the 3d of this Inſtant *September*, at *Newcaſtle*, in order to the running and marking out the Lines according to the Articles aforeſaid, at which Time and Place, in purſuance of the ſaid Adjournment, a Quorum of the ſaid Commiſſioners on the Part of *Maryland*, and a Quorum of the Commiſſioners on the Part of *Penſilvania*, being met, and the Com- 558 miſſioners on the Part of *Penſilvania* having then delivered to the Commiſſioners on the Part of *Maryland* a Paper, in Writing, ſigned by the ſaid Commiſſioners on the Part of *Penſilvania*, they the ſaid Commiſſioners of *Maryland*, in Anſwer to the ſame Paper, do ſay, that the Commiſſioners of *Maryland* have frequently acquainted the Commiſ- ſioners on the Part of *Penſilvania*, and do now repeat the ſame, that they the ſaid Commiſſioners on the Part of *Maryland* do conceive the principal Intentions and Directions of the 559 Proprietaries in the ſecond Article appear, by the whole Tenor of the Agreement and Commiſſion, to be, that no other Circle than the Circle mentioned and deſcribed in the Deed of Bargain and Sale, or Feoffment of *Newcaſtle*, or ſo much thereof as is requiſite, ſhould be drawn and marked out, and that they are informed and convinced, by Mathematicians, that ſuch Circle deſcribed and mentioned in the ſaid Deeds of Bargain and Sale, or Feoffment about *Newcaſtle*, can denote or mean no other than ſuch a Circle whoſe *Circumference* 560 or Periphery is 12 Miles, and whoſe Diameter is ſomewhat leſs than four Miles, and which Circle, of the ſaid Dimenſions, whoſe Circumference or Periphery is 12 Miles, the ſaid Commiſſioners on the Part of *Maryland* do acquaint the Commiſſioners on the Part of *Penſilvania* that they are ready to proceed to the running and marking out, in any manner the Commiſſioners on the Part of *Maryland* think themſelves authorized to proceed, if the Commiſſioners on the Part of *Penſilvania* will agree with the Commiſſioners on the 561 Part of *Maryland* to run and mark out ſuch Circle whoſe *Circumference* or Periphery is 12 Miles; and the Commiſſioners on the Part of *Maryland*, by Reaſon ſo great part of the time for executing the ſaid Articles is elapſed, do earneſtly deſire and preſs the Commiſſioners of *Penſilvania* to agree with them to run the Circle whoſe *Circumference* or Periphery is 12 Miles, in ſuch manner as their Authority directs, that no more time may be loſt. The Original, whereof this is a Copy, was received by us, *Iſaac Norris*, *Sam. Preſton*, 562 *J. Logan*, *A. Hamilton*, *James Steele*, *Robert Charles*, *M. Howard*, *M. T. Ward*, *Edm. Jennings*, *James Harris*, *J. Roſs*.

Sept. 4. *Newcaſtle*, *September* the 4th, 1733. The Commiſſioners on the Part of *Penſilvania* having, this Day, received the Anſwer of thoſe of *Maryland*, to the Paper delivered by the former, at a Meeting of the Commiſſioners Yeſterday, in which Anſwer the Commiſſioners of *Maryland* do alledge that they have *frequently* acquainted the Commiſ- 563 ſioners on the Part of *Penſilvania*; and do now repeat the ſame, that they, the Commiſſioners on the Part of *Maryland*, do conceive the *principal* Intentions and Directions of the Proprietaries in the ſecond Article appear, by the whole Tenor of the Agreement and Commiſſion, to be that no other Circle than the Circle mentioned and deſcribed in the Deed of Bargain and Sale or Feoffment of *Newcaſtle*, or ſo much thereof as is requiſite, ſhould be drawn and marked out, and that they are informed and convinced by 564 Mathematicians that ſuch Circle, deſcribed and mentioned in the ſaid Deeds of Bargain and Sale, or Feoffment, about *Newcaſtle*, can denote or mean no other than ſuch a Circle whoſe *Circumference* or Periphery is 12 Miles, and whoſe Diameter is ſomewhat leſs than four Miles, the Commiſſioners on the Part of *Penſilvania* conceive they cannot give a more proper or effectual Anſwer, than to the ſaid Allegation of the Commiſſioners of *Maryland*, of their having frequently acquainted thoſe of *Penſilvania* with their Sentiments as 565 aforeſaid, than by exhibiting a Copy of the Paper or Anſwer which they had prepared on the 3d of *February* laſt, at this Town of *Newcaſtle*, and delivered the ſame into the Hands of Governor *Ogle*, who then thought not fit to accept of it, *a Copy whereof is now again delivered*. Now the Commiſſioners on the Part of *Penſilvania* are firmly of Opinion that, when the Arguments, advanced in the ſaid Paper, are only conſidered, together with the *expreſs Words* of our reſpective Commiſſions, it will be next to an impoſſibility 566 to conceive that the principal Intentions and Directions of the Proprietaries in the ſecond Article of the Agreement can be other than a Circle to be drawn at the *Diſtance* of 12 Miles from *Newcaſtle*; and whereas the Commiſſioners of *Maryland* ſeem to depend on the Opinion of *Mathematicians*, by whom (they ſay) they are convinced that the Circle de- ſcribed and mentioned in the Deeds of Feoffment about *Newcaſtle* can denote or mean no other than ſuch a Circle whoſe Circumference or Periphery is 12 Miles, and whoſe 567 Diameter is ſomewhat leſs than four Miles, the Commiſſioners of *Penſilvania*, in the firſt Place, ſay that the Circle mentioned in the Letters Patent, Deeds, Articles, and Com- miſſions, is ſo clearly and fully deſcribed and explained that they cannot conceive there can be the leaſt room left to conſult Mathematicians thereupon, yet, to give their Sentiments, on the Opinion of ſome Mathematicians offered them, they ſay they cannot find, on any Enquiry they are capable of making, that the Matter in Controverſy can, by any means, 568 fall under the Cognizance of Mathematicians, as ſuch, for that they have been aſſured a Circle comes no otherwiſe under the Notice of a Geometer, or a Mathematician, than as he conſiders the Property of it, but no Property of a Circle, otherwiſe than as it is barely a round Figure, is in the preſent Caſe to be conſidered, and therefore, it appears to the ſaid Commiſſioners entirely out of the way of ſuch Artiſts to determine any thing, or give any Opinion, concerning the Circle now under Diſpute: It appears indeed that in 569 *Euclid*'s *Elements* (a Book of ſuch Authority as, it is ſaid, no Mathematician will, or can Diſpute) the Definition of a Circle is given in the Senſe it is uſed in Geometry, *viz.*

That

That it is a plain Figure, termined or comprehended by one Line which is called the Circumference, to which Circumference all ſtrait Lines drawn from one Point within the ſame
570 are equal to each other, and that this Point is called the Center, which ſo very plainly ſhews the Difference between a *Circle* and its *Circumference*, that it appears ſtrange to us, the Commiſſioners of *Maryand* would inſiſt upon Reaſons ſo ill grounded, but, from whence, it is plain from (to) the Commiſſioners of *Penſilvania*, that the Point in hand is entirely foreign to all Mathematical Enquiries, and it is equally evident, that the Senſe of the Words under Diſpute is to be taken only from the common Senſe of Mankind, who underſtand the
571 *Engliſh* Tongue, what is intended by the Words, *within* 12 *Miles of a Place*, or *within the Compaſs of* 12 *Miles about a Place*, is clearly underſtood by all *Engliſhmen:* Nor does the Addition of the Word, *Circle*, after the Word, *Compaſs*, make any manner of Alteration, for they manifeſtly mean the ſame Thing, and the Addition was moſt proper in this Place, becauſe a Circle, drawn at the Diſtance of 12 Miles from *Newcaſtle*, the ſame with the Circle granted in the Deed, is made, in Part, the Southern Boundary of the Province
572 of *Penſilvania*, by the King's Letters Patents, which were prior in Date to the Deed of Feoffment: The Commiſſioners for *Penſilvania* further ſay, that were it poſſible for them, contrary to plain and common Senſe, to be prevailed on to agree in running a Circle of about Four Miles Diameter only, the Commiſſioners for *Maryland* cannot but be ſenſible their Work would be in itſelf entirely void, as it would be *directly contrary* to the *expreſs Words* and Direction of their Commiſſion, from which, alone, they can derive any Power or Authority to run *any* Circle at all. *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, J. Steele, Rob. Charles.*

…y of the Pen- 573 The Commiſſioners on the Part of *Maryland* having made two Objections againſt running the Circle, or Part of a Circle, about the Town of *Newcaſtle*, as directed by the Agree-
…in Paper ten- ment made between the Proprietors of *Penſilvania* and *Maryland*.—Firſt, For that there being no *Center*, fixed or agreed upon by the ſaid Proprietors, from whence the ſaid Circle
…3 Feb. 1732. ſhall be drawn, they conceive they have no Power to make a Center, and, therefore, are not warranted by their Commiſſions to run the ſaid Circle. Secondly, For that the
…now again 574 Deed of Bargain and Sale or Feoffment from the late Duke of *York* to the late *William Penn* Eſq; the Elder, for the Town of *Newcaſtle*, and the Lands about the ſame, being
…ered 4 Sept. expreſſed in theſe Words, to wit, " All that the Town of *Newcaſtle*, otherwiſe called *Delaware*, and all that Tract of Land, lying within the Compaſs or Circle of 12 Miles
" about the ſame, ſituate, lying, and being, upon the River *Delaware*, in *America*," the ſaid Commiſſioners for *Maryland* do object that the *Circumference*, or Periphery, of that
575 Circle is to be but 12 Miles, which, they ſay, will make a Diameter ſcarce four Miles, or, at moſt, it will but make a Diameter of 12 Miles, ſo that the *Radius* of the Circle, to be run by the preſent Agreement about the Town of *Newcaſtle*, will be but ſix Miles *at moſt*, and that, the Words in the Article of Agreement and Commiſſions, which direct
576 that the Circle ſhall be at the Diſtance of 12 *Engliſh* Statute Miles from the Town of *Newcaſtle*, are either ſuperfluous, or are contradictory to the Deſcription in the Deed of Feoffment, and therefore void in themſelves: To which Objection the Commiſſioners, on the Part of *Penſilvania*, anſwer, That they conceive the Commiſſioners on both Sides be impowered or directed by their Commiſſions, in purſuance and in Part Performance of the ſaid Articles of Agreement, to draw and mark out the ſaid Circle mentioned in the
577 Charter of *Penſilvania* and Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, or ſo much thereof as ſhould be requiſite, at 12 Miles Diſtance from the Town of *Newcaſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles, and to do every thing neceſſary for the running the ſame accordingly; and that the Words in the ſaid Deed, as well as the Words in the ſaid Articles of Agreement, and the ſeveral Commiſſions from the reſpective Proprietors to the Commiſſioners, contain ſuch a certainty as will well warrant the
578 Commiſſioners to proceed in drawing and marking out the ſaid Circle, or ſo much thereof as ſhall be thought requiſite: As to the ſecond Objection, the Commiſſioners of *Penſilvania* are of Opinion, that it is not from the Words of the before-mentioned Deeds *only*, that the Radius of the ſaid Circle is to be judged of, or meaſured, but, likewiſe, from the Charter of *Penſilvania*, and the Grant of the late Duke of *York* to *William Penn* Eſq; the Elder, for that Tract of Land upon *Delaware* River and Bay, now called by the
579 Name of *Suſſex*, *Kent*, and Part of *Newcaſtle* County; and, if any doubt could ariſe upon the Words of the before Deed of Bargain and Sale for the Town of *Newcaſtle*, concerning the Radius of the Circle of 12 Miles about the ſaid Town, we conceive it is fully explained, cleared up, and reduced to a certainty, by the aforeſaid *Charter* and *Deeds*; for, it is to be obſerved, that as the Town of *Newcaſtle*, and the 12 Miles round the ſame, was originally appropriated, by the ſaid late Duke of *York*, for certain purpoſes, before
580 he granted the ſame to the ſaid *William Penn*; ſo King *Charles* the Second, when he granted the Province of *Penſilvania*, took care not to encroach upon that Circle, but begins the Bounds of the ſaid Province from 12 Miles Diſtance Northward of *Newcaſtle* Town: Thus, by the King's Grant of the Province of *Penſilvania*, we ſee, that *he* underſtood the Periphery or Circumference of the Circle about the Town of *Newcaſtle* to be 12 Miles *diſtant from the ſame:* It is further obſervable that, by the Grant of the ſaid late Duke
581 of *York* to the ſaid late *William Penn*, the Elder, of that Tract of Land now containing *Suſſex*, *Kent*, and Part of *Newcaſtle* County, the ſaid Duke, who was, at the Time of making the ſaid Grant, Owner of both the ſaid Town of *Newcaſtle*, and the 12 Miles round the ſame, and alſo of the ſaid Tract of Land lying on the River and Bay of *Dela-*
582 *ware*, underſtood the Circumference of the ſaid Circle to be at the Diſtance of 12 Miles *from the Town* of *Newcaſtle*, and accordingly deſcribes the Bounds of the ſaid Tract of Land, as lying on *Delaware* River and Bay, and *Beginning* 12 *Miles South from the Town* of *Newcaſtle*, and extending South to Cape *Hinlopen*, &c. From all which, we conceive it moſt evident, that the *Circumference* of the Circle about the Town of *Newcaſtle* is 12 Miles *diſtant from the ſame*; ſo it appears King *Charles* the Second, who was the
583 original Grantor, underſtood it when he bounded the Province of *Penſilvania* at the *Diſtance* of 12 Miles North of the Town of *Newcaſtle*, and the ſaid late Duke of *York*, who was Owner of all the Lands to the Southward of *Penſilvania* as far as Cape *Hinlopen*, and had the unqueſtionable Right to declare the meaning of his own Grant, *he* has declared how *he underſtood* the Extent of that Circle, by *beginning* his Grant of the Lands lying on *Delaware*, and to the Southward of the ſaid Town of *Newcaſtle*, at 12 Miles *diſtant*
584 from *the ſame*; but, were it poſſible, after Conſideration had of ſaid Charter and Deeds, for any Perſon to be in doubt about the Extent of the ſaid Circle, or Part of the Circle, now to be marked out by the Commiſſioners, we, on the Part of *Penſilvania*, are clearly of Opinion, that the Proprietors of both Provinces, who are the ſole Owners of all the Lands lying between the Bay of *Cheſopeak* and the River *Saſquahannah* to the Weſtward, and the Bay and River of *Delaware* to the Eaſtward, have, as they had an un-
585 doubted Right to do, in moſt full and expreſs Terms, removed that Doubt, by the ſecond Article of their Agreement; where they ſay that there ſhall be the ſaid Circle mentioned in the ſaid Charter for *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle*, or ſo much thereof as is requiſite, drawn and marked out at the 12 Miles Diſtance
586 *from the Town* of *Newcaſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles; and as to the Objection that ſo much of this Article as directs the Circle to be at 12 Miles Diſtance from the Town of *Newcaſtle* is ſuperfluous, or contradictory to the Deeds of Feoffment aforeſaid, and, therefore, void in itſelf, we do not conceive it deſerves any other Anſwer than to ſay, that the Article is neither ſuperfluous, or contradictory, but a plain Declaration of what has *always* been underſtood to be meant by 12 Miles about the Town of
587 *Newcaſtle*, and that the Proprietors of *Maryland* and *Penſilvania* had undoubtedly a good Right to divide their own Lands in ſuch manner as they thought fit, and they have accordingly agreed, that the Circle about the Town of *Newcaſtle* ſhall be drawn and marked out at the *Subſtance* (Diſtance) of 12 *Engliſh* Statute Miles from the ſaid Town, and the Commiſſioners on the Part of *Penſilvania* are now ready, and offer themſelves, to proceed to the drawing and marking out the ſame accordingly. *Newcaſtle Feb.* 3. 1732.
588 A Copy, delivered this 4th *Sept.* 1733, to the Commiſſioners of *Maryland*, by us *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*—— *Iſaac Norris, Samuel Preſton, A. Hamilton, James Steele, Robert Charles.*

Sept. 5. *Newcaſtle* 5th *Sept.* 1733. The Commiſſioners on the Part of *Maryland*, upon conſidering the Paper dated the 4th of this Inſtant, and alſo another Paper therein referred to, and both delivered the ſame Day to them by the Commiſſioners of *Penſilvania*, do return the following Anſwers: Firſt, That the Reaſons, alledged by the Commiſſioners of *Penſil-*
589 *vania*, are very far from being ſufficient to ſatisfy the Commiſſioners of *Maryland*, that the principal Intentions and Directions of the Proprietaries in the ſecond Article appear, by the whole Tenor of the Agreement, to be any otherwiſe than that no other Circle than the Circle mentioned and deſcribed in the Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, or ſo much thereof as ſhould be requiſite, ſhould be drawn and marked out, but, on the contrary, the Commiſſioners of *Maryland* conceive, that the Conſtruction on
590 the Intention of the Royal Grantors, and of the Parties (to) the Agreement, as well as to the References to ſuch Grants which the Commiſſioners of *Penſilvania* think themſelves obliged on this Occaſion to uſe, in order to ſhew what was intended by ſuch Deed of Feoffment, fully convince the Commiſſioners of *Maryland*, that no other Circle than the Circle deſcribed and mentioned in the Deed of Bargain and Sale or Feoffment of *Newcaſtle*, or ſo much thereof as may be requiſite, can, or ought to be run and marked out by
591 the Commiſſioners of *Penſilvania*, as well as by the Commiſſioners of *Maryland*. Secondly, The Commiſſioners of *Maryland* ſay, that (without attacking the Authority of *Euclid*) they cannot but retain the former Opinion they delivered to the Commiſſioners of *Penſilvania*, viz. That the Circle, mentioned and deſcribed in the ſaid Deed of Bargain and Sale, or Feoffment, can denote or mean no other than ſuch a Circle whoſe *Circumference*, or Periphery, is 12 Miles, and whoſe Diameter is ſomewhat leſs than four Miles,
592 and the Commiſſioners of *Maryland* cannot but wiſh the Mathematicians, with whom they had adviſed, had been now in *Newcaſtle*, but whoſe Preſence was not thought neceſſary after the Anſwer of the Commiſſioners of *Penſilvania* of the 8th of *May* laſt, to a Propoſal of the Commiſſioners of *Maryland* of the ſame Day, for the Commiſſioners of *Maryland* think that they could very eaſily make appear, that the Definition of a Circle in general, as quoted from *Euclid*, can have little Relation to the Deſcription and Dimenſions of
593 the particular Circle mentioned in the Deed of Feoffment. The Commiſſioners of *Maryland* further add, that they are not apprized of the Paper, referred to, being offered, or refuſed by, the Governor of *Maryland*. Upon the whole, for Reaſons often repeated, the Commiſſioners of *Maryland* are willing to run and mark out a Circle whoſe *Circum-*
ference is 12 Miles, as they have formerly propoſed, if the Commiſſioners of *Penſilvania* will agree and conſent thereto. *M. Howard, M. T. Ward, Edm. Jennings, Ja. Harris, John Roſs.* The Original, whereof this is a Copy, was delivered to us *Iſaac Norris, Samuel Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Sept. 6. 594 *Newcaſtle Sept.* 6th, 1733. The Commiſſioners on the Part of *Penſilvania* take leave to obſerve, that the Commiſſioners on the Part of *Maryland* have, at their late Meetings, conſtantly inſiſted, that the Circle mentioned in the Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, is only a Circle whoſe Circumference is 12 Miles, and whoſe Diameter
595 is ſomewhat leſs than 4 Miles, and that they are willing to run ſuch a Circle, but, as the Circle under our Conſideration, recited in the ſecond Article of Agreement, is expreſsly directed to be run at the Diſtance of 12 *Engliſh* Statute Miles *from the Town* of *Newcaſtle*, the Commiſſioners of *Penſilvania* conceive, that the Circle whoſe *Radius* is 12 Miles, is the *only* Circle the Commiſſioners of either Side are directed to run by their Commiſſions, from which alone they have any Power or Authority to run *any* Circle at all, and,
596 therefore, they expect the Commiſſioners of *Maryland* will either join with them in running *ſuch* a Circle, or *directly declare* they *will not*. *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Newcaſtle, Sept. 6th, 1733. The Commiſſioners of *Maryland*, in Anſwer to the Paper this Day delivered by the Commiſſioners of *Penſilvania*, do ſay, that as they are fully ſatisfied and convinced, that no other Circle than the Circle mentioned and deſcribed in the Deed of Bargain and Sale, or Feoffment, of *Newcaſtle* was intended, by the Articles
597 of Agreement, to be run and marked out, and, as the Commiſſioners of *Maryland* are alſo of Opinion, that ſuch Circle is *not* a Circle of 12 Miles *Radius*, or ought to be run at the Diſtance of 12 *Engliſh* Statute Miles *from the Town* of *Newcaſtle*, the Commiſſioners of *Maryland cannot agree*, or join with the Commiſſioners of *Penſilvania*, to run and mark out a Circle at the *Diſtance* of 12 *Engliſh* Statute Miles *from the Town* of *Newcaſtle*, or whoſe Radius ſhall be 12 *Engliſh* Statute Miles. *M. Howard, M. T. Ward, Edm.*
598 *Jennings, Ja. Harris, John Roſs.* The Original, whereof this is a Copy, was received by the Commiſſioners of *Penſilvania, Iſaac Norris, Samuel Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Newcaſtle, Sept. 6th, 1733. The Commiſſioners on the Part of *Maryland* deſire to know, from the Commiſſioners of *Penſilvania*, whether they will not conſent and agree with the Commiſſioners of *Maryland* to run and mark out any *other* Circle round the Town of *Newcaſtle*, than ſuch whoſe Radius ſhall be 12 Miles? *M. Howard, M. T. Ward,*
599 *Edm. Jennings, J. Harris, John Roſs.* The Original, whereof this is a Copy, was received by us the Commiſſioners of *Penſilvania, Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Newcaſtle, Sept. 6th, 1733. To the Queſtion of the Commiſſioners of *Maryland*, propoſed to us after the Delivery of our Paper this Forenoon, we Anſwer, that the Proprietors
600 of the two Provinces, *&c.* and *Maryland*, by the ſecond Article of the Agreement concluded between them, having agreed and directed, that there ſhall be the Circle mentioned in the Charter for *Penſilvania* and Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, or ſo much thereof as is requiſite, drawn and marked out, at the 12 Miles Diſtance *from the Town* of *Newcaſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles, and by the Commiſſion granted us for executing the ſaid Agreement, the ſaid Circle mentioned in
601 the ſecond Article is *that only* we are directed and impowered to run, therefore, we *cannot agree* to run any other than a Circle at the *Diſtance* of 12 Miles *from Newcaſtle*, as in the ſaid Article is directed. *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Newcaſtle, September the 6th, 1733. The Commiſſioners of the Proprietaries of *Maryland* and *Penſilvania* differing in their Sentiments, about the Dimenſions of the Circle
602 directed to be run by the Articles of Agreement now ſubſiſting between the ſaid Proprietaries, as appears by the ſeveral Papers exchanged between the Commiſſioners on both Sides this Day, the Commiſſioners on the Part of *Maryland* inſiſting that the Circle mentioned in the Deed of Bargain and Sale, or Feoffment, of *Newcaſtle*, which they ſay is a Circle whoſe Circumference or Periphery is 12 Miles, and whoſe Diameter is ſomewhat leſs than four Miles, is the only Circle they can run, and having deſired the Commiſſioners of
603 *Penſilvania* to join with them in running the ſame, the ſaid laſt mentioned Commiſſioners have refuſed ſo to do, as not being the Circle directed in the Articles of Agreement, and the Commiſſioners on the Part of *Penſilvania* inſiſting upon running a Circle at the Diſtance of 12 Miles from the Town of *Newcaſtle*, as they ſay they are directed by the ſaid Articles of Agreement and their Commiſſion, and having deſired the Commiſſioners of *Maryland* to join in running ſuch a Circle, they have refuſed to do the ſame, and ſay
604 further that, foraſmuch as the Commiſſioners on the Part of *Maryland* and *Penſilvania* cannot agree about the Dimenſions of the Circle to be run in purſuance of the ſaid Articles of Agreement, and that they cannot compel the Commiſſioners of *Penſilvania* to join with them in running a Circle whoſe Circumference or Periphery is 12 Miles, and whoſe Diameter is ſomewhat leſs than four Miles, it is to no purpoſe to continue here, but that we ought to adjourn for further Conſideration of the Premiſſes: To which, the Commiſ-
605 ſioners of *Penſilvania* ſay, that they are fully ſatisfied that the Circle of 12 Miles Diſtance from the Town of *Newcaſtle*, is the only Circle they can agree to run, yet, foraſmuch as the Commiſſioners of *Penſilvania* cannot compel the Commiſſioners of *Maryland* to join with them in running ſuch a Circle, they muſt, at preſent, yield to the Adjournment propoſed by the Commiſſioners of *Maryland*; which Adjournment is hereby fixed for the 14th of *November* next; at which time the Commiſſioners agree that they, or a Quorum
. 16. 606 of each Side, will then attend, at *Newcaſtle*, in Diſcharge of their reſpective Truſts. *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele, Robert Charles.*

Newcaſtle, November the 16th 1733. The Commiſſioners appointed by the Right Honourable the Lord Proprietor of *Maryland*, and the Commiſſioners appointed by the Honourable the Proprietors of *Penſilvania*, for running the Lines, *&c.* having, purſuant to their Adjournment on the 6th of *September* laſt, met, at the Town of *Newcaſtle*, of this Inſtant *November*, and continued together by ſeveral Adjournments to this 16th Inſtant of the ſame *November*, at the ſaid Town of *Newcaſtle*, the Commiſſioners on the Part of
607 *Maryland* having acquainted the Commiſſioners on the Part of *Penſilvania* that they are willing to run the Circle mentioned in the Deed of Bargain and Sale and Deed of Feoffment of *Newcaſtle* in the manner they have frequently before offered to the Commiſſioners of *Penſilvania*, and the ſame Commiſſioners of *Penſilvania* inſiſting they can only run a

Circle of 12 Miles Radius, by reaſon whereof the ſaid Commiſſioners on both Sides not being able to agree in the Dimenſions of the Circle ſo to be run about *Newcaſtle*, the
608 Commiſſioners on the Part of *Maryland*, in order that they may endeavour to do and execute ſo much of the ſaid Articles and Commiſſion as may be found practicable by a joint Agreement, propoſe and offer to the Commiſſioners of *Penſilvania* to proceed to Cape *Hinlopen*, in order to proceed in fixing the Cape, and running the Eaſt and Weſt Line directed by the third Article to be run from thence. The Original, whereof this is a Copy, was delivered by the Commiſſioners of *Maryland* to us the Commiſſioners of *Penſilvania*.
609 *Iſaac Norris, Sam. Preſton, J. Logan, A. Hamilton, James Steele.*

Nov. 17. To the Commiſſioners appointed on the Part of *Maryland* for running, marking, and laying out the Lines, Limits or Bounds between the Province of *Maryland* and the Province of *Penſilvania* and the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*; Gentlemen, In order to anſwer the Propoſals of the 16th Inſtant, to us the Commiſſioners on the
610 Part of *Penſilvania*, ſetting forth that you the Commiſſioners on the Part of *Maryland* having acquainted thoſe on the Part of *Penſilvania* that you are willing to run the Circle mentioned in the Deed of Bargain and Sale and Deed of Feoffment of *Newcaſtle* in the manner you have frequently before offered (which by your Papers appears to be a Circle of ſomewhat leſs than four Miles Diameter, or leſs than two Miles Radius) and we, the Commiſſioners on the Part of *Penſilvania*, inſiſting that we can only run a Circle of 12 Miles Radius,
611 by reaſon whereof the Commiſſioners on both Sides not being able to agree in the Dimenſions of the Circle ſo to be run about *Newcaſtle*, you therefore, in order that you may endeavour to do and execute ſo much of the Articles and Commiſſions as may be found Practicable by a joint Agreement, propoſe and offer to us the Commiſſioners of *Penſilvania* to proceed to Cape *Hinlopen*, in order to proceed in fixing the Cape and running the Eaſt and Weſt Line directed by the third Article to be run from thence, we the Commiſſioners on
612 the Part of *Penſilvania*, that our Senſe of the whole Affair now depending between us and the Nature of this laſt Propoſal may more clearly and fully be underſtood, we believe it incumbent upon us briefly to ſtate the Caſe, which will the better enable us to give you a proper Anſwer. We muſt then crave leave to take Notice that the Province of *Maryland* and
613 the Province of *Penſilvania*, with the Tract now called the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, bounding on each other, their Limits, for above theſe 50 Years paſt, have lain undetermined, by means whereof many Diſputes, and much Cauſe of Uneaſineſs muſt neceſſarily from time to time have aroſe between his Majeſty's Subjects, Inhabitants of the reſpective Borders, to the Diſturbance of the Quiet and Peace of both Governments; for the effectual Removal of which the Proprietors, on both Sides, in
614 the Year 1724, but, afterwards much more fully, entered into the moſt amicable Meaſures, and, by Articles, ſolemnly concluded the 10th Day of *May* 1732, agreed on their reſpective Boundaries to be fixed without delay, by Lines in the ſaid Articles particularly expreſſed, and for the moving all Doubts and Miſtakes more plainly directed by a Plan or Map printed thereon, and Commiſſioners, on both Sides, in purſuance of the ſaid Articles, were appointed and authorized for executing the ſame, and as the whole Tenor of thoſe Articles expreſs the moſt tender regard in the Proprietors, on both Sides, for the Security, Quiet and Eaſe of all his Majeſty's Subjects concerned therein, ſo,
615 they declare that their Commiſſioners ſhould proceed, on their Part, with all the Fairneſs, Candour and Diſpatch that reaſonably may be in the Buſineſs enjoined them. With how ſincere a Satisfaction the Account of ſuch an Agreement was received, not only by all thoſe whoſe Poſſeſſions near the Borders had been liable to Diſpute, but all others who had long wiſhed to ſee that Subject of Diſcord removed, we need not mention. We the Commiſſioners for *Penſilvania*, though Age and Infirmities had rendered divers
616 of us leſs fit for the Fatigue, yet, on a reaſonable Expectation of ſeeing Peace and Tranquillity between theſe neighbouring Goverments fully and effectually Eſtabliſhed, chearfully undertook the Charge; but, however ſincere the whole Tenor of thoſe Articles ſhews the Intention of the Proprietors, themſelves, to have been, in agreeing on and executing them, it is, with a very deep Concern, we are obliged to take Notice that the *Conduct of the Commiſſioners* of *Maryland* has hitherto appeared to be directed to a *different View*,
617 which we collect from theſe well-known Inſtances; the firſt Meeting being appointed by our reſpective Governors to be on the 6th of *October* 1732, at *Newtown* in *Maryland*, when ſix of the Commiſſioners of *Penſilvania* there met a competent Number of yours, the *Validity of our Commiſſion* from our Proprietors, ſo exactly agreeable to the Directions of all the contracting Parties to the Articles, *was ſcrupled by you*, becauſe not ſigned by certain other Perſons who were no Parties at all. As this *beginning* gave us ſome Apprehen-
618 ſions, we immediately propoſed what is uſual and neceſſary in all ſuch Caſes, that, for the better preventing all Diſputes and Miſapprehenſions, a Clerk or Clerks ſhould be appointed for taking Minutes of our Proceedings, yet, this could, by no means, be obtained; It was, however, then agreed that the ſaid Article for running the Circle about *Newcaſtle*
619 being the firſt in order, and about which great Part of the Work depended, we ſhould firſt meet there to proceed on that Circle *as the firſt Thing neceſſary to be done* by us, and thereupon adjourned to meet at *Newcaſtle* the 30th of the ſaid *October*: At our Meeting at *Newcaſtle* the 30th of *October*, purſuant to the preceding Appointment, having reaſon, from the Tenor of our Commiſſions, to expect we were *then* immediately to proceed in the Buſineſs of the Circle, for which we had fully provided Surveyors and all neceſſary Inſtruments
620 on our Part, inſtead of this, it was demanded of us on our Part that we ſhould produce the Charter for our Province, and the Deed of Feoffment for *Newcaſtle*; with which, though we were fully ſatisfied (ſince they are all largely recited in the Articles) we had then nothing at all to do, yet, to ſhew our Inclination to oblige you, one of our own Number condeſcended to take a Journey to *Philadelphia* for them, and being brought, the next Step on your Part was, to ſtart *a Difficulty* about finding the *Center* of the Circle; but
621 this, we ſhewed, from the Words of the Articles and the Draught, might eaſily been found and agreed on; yet, you poſitively inſiſted on the Difficulties of it, as a Matter out of your Power; and, *therefore*, propoſed a *long* Adjournment, that *you might*, in the mean time, have an Opportunity of *conſulting your Lord Proprietor* (whoſe Arrival in *Maryland*, you ſaid, was daily expected.) At that Meeting we *again* ſtrenuouſly inſiſted on the Admiſſion of *a Clerk*, or that Minutes of our Proceeding ſhould be taken by joint Con-
622 ſent, that what ſhould paſs between us in our Conferences might be reduced to ſome Certainty; but this was as obſtinately *oppoſed*, and nothing, but an Adjournment, inſiſted on; to which we, at length, condeſcended for about three Months, becauſe of the Winter Seaſon, *viz.* to the 1ſt of *February* then next enſuing. —— Being again met, at *Newcaſtle*, on the ſaid 3d of *February*, when our Commiſſioners might reaſonably expect you had then received from your Lord Proprietor (who had arrived many Weeks before)
623 full Inſtructions for the removing the Difficulties ſtarted about the Center, all the Anſwer given on your Part was, that his Lordſhip had left it to his Commiſſioners; ſo that the ſame Objection ſtill remained, and, then, a *new Doubt was raiſed about the Diameter of the Circle*; this, indeed, appeared, by the Articles and our Commiſſions, to be put be-
624 yond all poſſibility of Diſpute, by the plain and expreſs Words of the 2d Article, *viz.* that there ſhall be the ſaid Circle, mentioned in the ſaid Charter for *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as is requiſite) drawn and marked out at 12 Miles Diſtance from the Town of *Newcaſtle*, which 12
625 Miles ſhall be 12 *Engliſh* Statute Miles; yet, notwithſtanding the Plainneſs of theſe *Engliſh* Words, you thought fit to declare *you were not* ſatisfied in that Point, and, then it was, that, on a Queſtion propoſed to us, which required to be fully and particularly anſwered on our Part, and therefore demanded Time and Application, though ſome of our Number attended, yet, becauſe, through the Indiſpoſition of ſome others, we delayed Meeting an Hour or two longer than *one* of the times mentioned the preceeding Night for our Adjournment, you were pleaſed intirely to withdraw; and, though our Commiſſioners attended you, about Noon, *of the ſame Day*, and both yours, and ours, met a full
626 Hour after that time, and dined together, yet, you abſolutely refuſed to join with us any more, and, notwithſtanding you had two ſeveral Notices from us, agreeable to the Tenor of the Articles, to meet us again, Firſt, the ſame Evening after, the 3d of *February*, and, on your Neglect of that Notice, again, on the Second, or *Monday* of next Week, being the 5th of the Month, you left *Newcaſtle* on the 4th, and returned to *Maryland*. Again, by an Expreſs from *Philadelphia* to *Annapolis*, we ſent you another Notice to meet us at *Newcaſtle* the 16th of *April*, but, rejecting this, by the ſame Meſſenger, you ſent us another Notice, to meet you at *Joppa*, a ſmall Village in *Maryland*,
627 on the other Side of the Bay, and at 50 Miles diſtance at leaſt from where *any part* of our Buſineſs could lie; yet, this Notice of yours, however unreaſonable, that we might not be wanting in any thing within our Power that might contribute to carry on the Work, five of our Number complied with, and attended your Commiſſioners there. At *Joppa* we found what you had there to propoſe was, that we ſhould adjourn to Cape *Hinlopen*; but this being ſhewn to be irregular, and inconſiſtent with the Tenor of the Ar-
628 ticles, till the Circle about *Newcaſtle* was fixed, as divers of your Number (as you ſaid) were obliged to wait on your Lord Proprietor to *Burlington*, it was mutually agreed that we ſhould adjourn to *Philadelphia*. Where, being met, without agreeing on any thing further, another Adjournment was propoſed; which Adjournment, becauſe (as it was alledged on your Part that you muſt neceſſarily attend his Lordſhip at his Embarking for *Britain*, and becauſe of the unfitneſs of the Seaſon in the Month of *Auguſt* for the Buſi-
629 neſs of Surveying in the Woods) was agreed to be at *Newcaſtle* the 3d of *September* laſt. At that Day, we accordingly met, and, then, it was propoſed to us that we ſhould join with you in running a Circle, or part thereof, whoſe Diameter is ſomewhat leſs than four Miles, which we abſolutely refuſed, for the plain Reaſon then given, but, on the other hand, we deſired you to join with us in running a Circle, or part thereof, of 12 Miles Radius, as expreſsly directed in the Articles and our Commiſſion; but this, you
630 equally refuſed to comply with; and, ſeeing we appeared then to be at a ſtand, you propoſed an Adjournment for further Conſideration; which was yielded to on our Part, to be here at *Newcaſtle* the 14th of this Inſtant *November*; here accordingly, we met, but finding no reſult from the further Conſideration propoſed at the laſt Adjournment, but that you remain fixed in agreeing to no other Circle than one of ſomewhat leſs than two Miles Radius, to which, you well know, we never can ſubmit, as you alſo know that, if we
631 ſhould ſo far forget our Self, and our Charge to comply therewith, the work, when done, would be entirely void, as being contrary to the expreſs Words of the Articles and our Commiſſion, you have, now, thought fit to propoſe that we ſhould go to Cape *Hinlopen*, in order to proceed to fixing the Cape, and running the Eaſt and Weſt Line directed by the third Article to be run from thence. Now, to come to a full and particular Anſwer to this Propoſal, we, the Commiſſioners on the Part of *Penſilvania*, ſay, that we
632 have thought it incumbent on us, at all times, to attend the Work enjoined by our Commiſſion, according to the true Tenor and plain Meaning thereof; that by the Articles, and our ſaid Commiſſions, the *firſt* Buſineſs required to be done by us is the running of a *Circle* about *Newcaſtle*, or ſo much thereof as is requiſite, at the Diſtance, or by a Radius,
633 of 12 *Engliſh* Statute Miles, directed in ſuch expreſs Terms that, we conceive it impoſſible to Miſtake the meaning of them, that ſo much of the other Work depends upon this Circle (as the South and North dividing Line, particularly, is to be divided by it) that, without ſome certain Aſſurance that *this* Circle could be fixed within the time limited, it would be Labour and Expence entirely loſt to ſet about it: You cannot, therefore, but allow us to be clearly of the Opinion that, notwithſtanding you have, hitherto, as well
634 to your own Fatigue, as ours, kept up the Adjournment, that have been made, yet, for ſome Reaſons, beſt known to your ſelves, it has not, from your firſt Meeting with us (as we conceive) appeared that you *really intended* to carry on and finiſh this important Work, ſo much wanting for quieting the Minds of the People and eſtabliſhing the Tranquillity of both Governments; but, on our Parts, we are, and ſhall be, ready to proceed in the Buſineſs according to the true Tenor and Directions of our Commiſſions;
635 and, as we conceive all other Meaſures wholly uſeleſs, ſo, we muſt inſiſt on ſaying that, for the Reaſons herein given, we cannot depart from *Newcaſtle* in order to proceed on any *other part* of the Work, before the neceſſary one of running the Circle as directed in the Articles be firſt done. *Newcaſtle*, 17th of *November* 1733, *Iſaac Norris, Samuel Preſton, James Logan, A. Hamilton, James Steele.*

Novemb. 19. To the Commiſſioners appointed on the Part of *Penſilvania* for running, marking and laying out the Lines, Limits or Bounds between the Province of *Maryland* and the
636 Province of *Penſilvania*, *&c.* Gent. Your Anſwer of 17th Inſtant, to our Propoſal of 16th Inſtant, to proceed to Cape *Hinlopen*, lays us under a Neceſſity of truely, and briefly, ſtating the Proceedings and Behaviour of the Commiſſioners, on each ſide, which will fully juſtify ſuch Propoſal. For which purpoſe we muſt admit that the Province of *Maryland* and the Province of *Penſilvania* are bounded on each other, but we muſt obſerve that, altho' the Bounds deſigned for the Province of *Maryland* by the Royal Charter are
637 ſufficiently deſcribed, yet, for want of a proper Obſervance of ſuch Bounds, many Encroachments have been made into the Province of *Maryland*, which neceſſarily created Diſputes and Uneaſineſs between his Majeſty's Subjects of the two Provinces. It is true Articles were concluded the 10th Day of *May* 1732, between the Proprietaries of the ſaid Provinces for fixing the true Boundary of the Circle about the Town of *Newcaſtle*, and for determining what *ſhould be* the Limits, when run and marked, of the Provinces of
638 *Maryland* and *Penſilvania*, and the two Counties now called *Kent* and *Suſſex* on *Delaware*; and, altho' our earneſt Endeavours, in diſcharge of our Duty enjoined by the Articles and Commiſſion, have not hitherto had the deſired Effect, yet, we can, with much Reaſon, pleaſe our ſelves in thinking that we ſhall not deſerve (even from you) that ſevere and uncharitable Imputation of our Conduct tending to a different than the Execution of the Articles and Commiſſion, when we ſhall have fairly repreſented, and brought to
639 your Recollection, all the ſeveral Inſtances which, we will ſuppoſe, you have rather miſtaken or forgot, than wilfully miſrepreſented. The firſt Meeting being at *Newtown*, in *Maryland*, the 6th of *October* 1732, the Commiſſions impowering the Commiſſioners on each ſide to act in the Execution of the Articles were inſpected; and, ſurely, it behoved the Perſons authorized, to conſider their Powers, in ſuch manner as they might be ſatisfied whether they were ſufficiently ample for the Purpoſes deſigned; nor can we
640 conceive how that firſt Step of prudent Caution, could give the Commiſſioners of *Penſilvania* any Apprehenſions, unleſs the Commiſſioners of *Penſilvania* were themſelves determined before-hand, and thought the Commiſſioners of *Maryland* obliged to proceed in the Execution of the Articles whether the Commiſſioners of *Maryland* were convinced, or not, of their Power, or of their being in the right or wrong in their Behaviour. Your mention, of a Propoſal being made to you at that Meeting, and repeated at the
641 Meeting on the 30th of *October* at *Newcaſtle*, of the Admiſſion of a Clerk, or that Minutes ſhould be taken by joint Conſent, muſt, upon recollection, ſeem very ſtrange, even to your ſelves, for an Inſinuation is endeavoured to be raiſed that no Minutes of what paſſed, at either of thoſe Conferences, was reduced to a Certainty: Be pleaſed, Gent. to *review* your Papers, and, we preſume, you will find a Minute, taken of the Proceedings of the Commiſſioners at the Meeting of the 6th of *October* at *Newtown*, for we af-
642 firm that we have ſuch Minutes, in the Hand-writing of one of the Commiſſioners of *Penſilvania*, and, ſuppoſe, a Duplicate of the ſame is in your Poſſeſſion. We muſt not impute this Miſrepreſentation to any want of Candour, but meer Forgetfulneſs, and, as a Minute was ſo taken, at the firſt Meeting, how could it be *ſuppoſed* ſuch a Method would be diſcontinued, in the After-meetings, or make your Repetition neceſſary? And we apprehend, neither one, or more, Clerks could, with ſo much Satisfaction and Certainty, reduce any of the Proceedings into Writing, as the Commiſſioners themſelves, either jointly or ſeparately might do in the manner obſerved at the firſt Meeting.—
643 You are pleaſed to ſay it was agreed, at the firſt Meeting, that the 2d Article for running the Circle about *Newcaſtle*, being the firſt in Order, and upon which great part of the reſt of the work depended, the ſaid Commiſſioners ſhould firſt meet there, to proceed on the Circle as the firſt thing neceſſary to be done by the ſaid Commiſſioners; Would not any one imagine that theſe were the Words, or Purport, of the *Minute*, taken at the firſt Meeting, of the Proceeding and Adjournment; but, to our great Aſtoniſh-
644 ment, we cannot find, *in that Minute*, the leaſt Mention of the Commiſſioners Senſe being that the running out the Circle about *Newcaſtle* was the firſt thing neceſſary to be done; nor, indeed, is there any Notice taken *of what paſſed* at that Meeting in the ſaid Minute, ſave that the Commiſſions and Articles were read, and that the Commiſſioners did unanimouſly (agree) that they, or a ſufficient *Quorum* of them, without further Notice, ſhould meet at the Town of *Newcaſtle*, on *Delaware*, on *Monday* the
645 30th of that Inſtant *October*, in order to proceed and mark out the Circle in the ſaid Agreement mentioned. We forbear gueſſing at, or at leaſt animadverting on, what might be the Occaſion of your aſſerting, in your Anſwer, that to be, which *does not appear by the Minute* taken. The Commiſſioners of *Maryland* attended, on the 30th of *Octob.* at *Newcaſtle*, purſuant to their then laſt Adjournment, with their Surveyors and all neceſſary Inſtruments on their parts, for their Proceeding on the Buſineſs of the Circle,
646 but, for their more fully underſtanding the Nature of what they were enjoined to execute, they did require, from the Commiſſioners of *Penſilvania*, a Peruſal of the Charter of

of *Penſilvania*, and Deed of Feoffment, and for which, we think, they had good right, thoſe Deeds being referred to in the Articles: And, altho' the Commiſſioners of *Penſilvania*, by having ſuch Deeds in *their* Poſſeſſion, had ſatisfied themſelves that they were all largely and truely recited in the Articles, yet, the Commiſſioners of *Maryland*
647 could not arrive at the ſame Satisfaction, before thoſe Deeds were produced to them by the Commiſſioners of *Penſilvania*: You ſay, very truely, in taking Notice that a Difficulty was ſtarted, at that Meeting, about finding the Centre of the Circle, and, with as much Truth, we can ſay, that we apprehend the Commiſſioners of *Penſilvania*, as well as the Commiſſioners of *Maryland*, thought it of ſo much Weight that an Adjournment was readily agreed on, and *perhaps* the Hopes of ſome Endeavours to
648 obviate that Difficulty, between one of the *Penſilvania* Proprietors then in *Philadelphia* and the Lord *Baltimore* (who was then ſhortly expected) might conduce to a ready Diſpoſition in the Commiſſioners for an Adjournment; but, we beg leave to take Notice, that the ſame Difficulty has not, *as yet*, *been removed*; nor have we been able to comprehend how any Words of the Articles, or the Maps, can denote the Place, or the Centre, of that Circle; Nor can we omit obſerving, on the Expreſſion of the
649 Commiſſioners of *Maryland* propoſing a long Adjournment, when ſome of the Commiſſioners of *Penſilvania*, at a Meeting on the firſt Day of *February*, expreſſed their Thoughts, that, conſidering the Seaſon of the Year, the meeting together was rather too early, we are at a Loſs to know, why, at the Meeting, on the firſt, the Commiſſioners of *Penſilvania* ſhould have greater Reaſon to expect the Commiſſioners of *Maryland* had received from the Lord Proprietary full Inſtructions for removing the Difficulty, than the Commiſſioners of *Maryland* might have, to expect the Commiſſioners of *Penſilvania* had received Inſtructions from one of their Proprietaries? It was a Difficulty which
650 affected the Execution of the Articles, and thereby incumbent on the Commiſſioners, on both Sides, to endeavour the Removal of it, but his Lordſhip was unwilling to interpoſe in this Matter, being apprehenſive that if, at once, the Direction of the Proprietaries, who were Principals in the Agreement, was admitted to influence the Commiſſioners in the Explanation of the Truſt committed to them, it might have a Tendancy rather to create, than reconcile, Differences, and, for that Reaſon, we think, his Lordſhip, with
651 great Candour, anſwered, that he had left it to his Commiſſioners. We deſire to remind you, Gentlemen, that, altho' the Objection of the *Center* ſtill remained, yet, the Commiſſioners of *Maryland*, in order to ſhew their Candour and Willingneſs to proceed in the Execution of ſuch Part of the Articles as could be agreed upon, propoſed the Conſideration of the Circle directed to be run about *Newcaſtle*. We confeſs that, notwithſtanding the extreme Plainneſs of *Engliſh* Words, which you are pleaſed to aſſure us is in
652 the ſecond Article, yet, we cannot help thinking, and ſaying, that, as we have formerly conceived, and often declared to you, ſo we repeat the ſame Opinion, that, either, they imply a Contradiction, or the Dimenſions intended and directed by that Article, are different from what you have inſiſted upon. We omit, at this time, the ſeveral Reaſons urged by the Commiſſioners of *Maryland* in Maintainance of their Opinions, but, in diſcuſſing the Doubt, raiſed about the Dimenſions of the Circle, the Commiſſioners of
653 *Maryland* did declare that they thought Mathematicians, if adviſed and conſulted with, might give the Commiſſioners, on both ſides, ſome Satisfaction for the Underſtanding the Circle contained in the Deed of Feoffment, or Bargain and Sale, of *Newcaſtle*, and, therefore, in the Morning of the 2d *Feb.* it was propoſed, and agreed, to conſult with Mathematicians, and that the Mathematicians ſhould deliver their Opinions in the Preſence of each other, before the Commiſſioners, and argue thereupon at five a Clock in the Afternoon, of the ſame Day. It muſt be remembered that the Commiſſioners, being met, on that Afternoon, the Commiſſioners of *Penſilvania* acquainted the Comiſſioners
654 of *Maryland* that one of their Mathematicians, with whom they intended to conſult, was ſo ill of the Gout that he could not, that Afternoon, attend, and deſired the Matter and Queſtion might be reduced into Writing, and that, if he could not attend the next Day, the Commiſſioners of *Penſilvania* would procure his Anſwer in Writing. The Commiſſioners of *Maryland*, that no Time might be loſt in forwarding the Execution of the Agreement, offered to the Commiſſioners of *Penſilvania* to go with them, that
655 Afternoon, to the Place where their Mathematicians were, and carry their own Mathematicians to the ſame Place, which, the Commiſſioners of *Penſilvania* (for Reaſons only known to themſelves) refuſed; after which, a Queſtion was reduced into Writing, for the Conſideration and Opinion of the ſaid Mathematicians, and the Commiſſioners of *Penſilvania* had a Paper, containing the ſame, in order to conſult with their Mathematicians thereupon, as had been before mentioned, and reſolved upon, againſt the next Morn-
656 ing, but, to the Surprize of the Commiſſioners of *Maryland*, they, the Commiſſioners of *Penſilvania*, tho' ſent to, and often called upon, neglected their Attendance purſuant to their former Day's Adjournment, in a Manner too well known and ſupported to need any particular mention, at this time, of the Circumſtances thereof. We muſt own, you were ſo obliging and civil as to give us an Invitation to a very handſome Entertainment, on the ſame Day this Non-attendance happened. But we muſt take the
657 Liberty of making a Diſtinction between a Meeting of the ſaid Gentlemen, as Commiſſioners, purſuant to a regular Adjournment and Appointment, and a Meeting in a common Converſation or Company. The laſt, but not the firſt, kind of Meeting was had, on that Day, after the Default of the Commiſſioners of *Penſilvania* in the Morning; and this Behaviour of the Commiſſioners of *Penſilvania*, we think, juſtified the Commiſſioners of *Maryland* in their Departure from *Newcaſtle* to *Maryland*, ſince there appears a Deſign, in the Commiſſioners of *Penſilvania*, by ſuch Non-Attendance to fruſtrate the Deſign of the Articles, by which means the Commiſſioners of *Maryland* had
658 the greateſt Reaſon of an Advantage accruing to the Lord Proprietor of *Maryland*, in his Claim of the Penalty mentioned in the Articles; notwithſtanding which, his Lordſhip, under a reſerve of that Advantage, thought fit to permit the Commiſſioners ſtill to endeavour the Execution of the Articles, and, for that reaſon, by Letter, dated the 15th of *Feb.* 1732, directed to and acquainted the Governour of *Penſilvania*, one of the Commiſſioners, that his Commiſſioners had, notwithſtanding that Default, liberty from
659 him to meet the Commiſſioners of *Penſilvania* the firſt *Monday* in *May* then next, at *Joppa*, in *Baltimore* County, in *Maryland*. The Commiſſioners of *Penſilvania*, after this Letter, thought fit, by a Letter dated 28th *March* 1733, to offer a Meeting at *Newcaſtle* on 16th of *April* then next, but, by the ſame Meſſenger, the Commiſſioners of *Maryland*, by a Letter, with their particular Reaſons, repeated the offer of a Meeting, on the before-mentioned firſt *Monday* in *May*, at *Joppa*, and the Commiſſioners of *Maryland*
660 then mentioned that they could not ſee the neceſſity of Meeting at *Newcaſtle*, rather than any other Place, before the Differences in their Opinions and Judgments were adjuſted. At a Meeting of a *Quorum* of the Commiſſioners, at *Joppa*, the Nature and Dimenſions of the Circle were, again, debated, and that Debate was carried on by an Exchange of Papers. We are really ſorry, Gentlemen, to be obliged to remind you, again, of what ſeems to have ſlipt the Memory, or which you have overlooked, in the
661 Peruſal of thoſe Papers. You ſay that what the Commiſſioners of *Maryland* had there to propoſe was, that the Commiſſioners ſhould adjourn to Cape *Hinlopen*; if you mean, as you ſeem to intimate, that that was the *only* Propoſal, pray examine the Papers there exchanged, and you will find, by one dated 8th *May* 1733, the Commiſſioners of *Maryland* propoſed to the Commiſſioners of *Penſilvania* to run out a Circle whoſe Circumference ſhould be 12 Miles about *Newcaſtle*, and alſo propoſed to hear any Arguments, or
662 receive any Information, from other Mathematicians than their own, in caſe the Commiſſioners of *Penſilvania* differed from the Commiſſioners of *Maryland* in Judgment about the ſaid Circle; what did the Commiſſioners of *Penſilvania* anſwer to thoſe Propoſals? To the firſt, they declared their Opinion, that a Circle whoſe Circumference was 12 Miles was *not* the Circle, but a Circle whoſe Radius was 12 Miles, was the only Circle directed by the Articles; and, to the ſecond Propoſal they conceived they had no Need or Au-
663 thority to refer the Conſtruction of the Circle, *&c.* to any Perſon whatſoever. Had the Commiſſioners of *Maryland* deſired the Commiſſioners of *Penſilvania* to refer the Conſtruction of the Circle to any Perſon, in ſuch Manner, as by ſuch Reference, and the Opinion of the Referree thereon, the Commiſſioners would have *bound* themſelves in the Execution of the Articles, the Commiſſioners of *Penſilvania*'s Anſwer would have been very juſt; but, to reject a Propoſal to procure ſome better Information and Underſtanding, in a Point of the Articles where Doubts had aroſe, we muſt ſubmit how reaſonable it was; for ſuch your Denial tended to force us, againſt our own Conviction, to what
664 you, and not our ſelves, ſhould think juſt and right. Thus, the Commiſſioners of *Maryland* were ſo unhappy as not to have either their Propoſal of Proceeding to Cape *Hinlopen*, or that of receiving Information from Mathematicians, concurred with by the Commiſſioners of *Penſilvania*; whereupon, ſince nothing could be there agreed upon, the Commiſſioners, by Papers exchanged between them 9th of that *May*, made an Adjournment to *Philadelphia*, and, as we apprehend, for the mutual Convenience of both
665 Commiſſioners; and this we have the greater Reaſon to ſay ſince, the Motive, mentioned by you, of the Commiſſioners of *Maryland* deſiring to attend his Lordſhip, is not taken Notice of *in the Paper* containing the Adjournment. The Commiſſioners did meet in *May*, at *Philadelphia*, and, from thence, an Adjournmeut was made to the 3d of *Sept.* laſt, for the Reaſons mentioned in the Paper containing that Adjournment; and, what was offered, or refuſed, by the Commiſſioners of either ſide, will appear by the ſe-
666 veral Papers exchanged at that Meeting; and it was, from the Commiſſioners being at a ſtand (as you are pleaſed to expreſs it) that the Commiſſioners of *Maryland*, always ready to make Propoſals, or offer Expedients, for the Furtherance of the Execution of the Articles, ſo far declined an obſtinate Perſeverance in their Opinions, that they propoſed an Adjournment, for a further Conſideration.—We find that, notwithſtanding our Hopes, the ſame Sentiments as appears, as formerly, with relation to the Circle; but
667 why muſt we know that you can never ſubmit to our Opinion of that Circle? We think our ſelves right, and therefore have reaſon to expect you'll in time be convinced of it; beſides, ſuch Arguments as theſe in your Anſwer may, with as much Propriety, be uſed by us againſt you, which we ſhall avoid, being ſenſible to carry no Conviction. We have offered, under the Diſagreement we now labour, to proceed to Cape *Hinlopen*, in order to fix the Cape, and run the Eaſt and Weſt Line from thence, and we are well
668 convinced that ſuch Propoſal (tho' you have thought proper to reject it) is rational and expedient, for the following Reaſons, *viz.* That that part of the Work muſt be done, as well as any other, before 25th of *December* 1733; That the Winter-Seaſon is ſo much entered into, that no Probability of running the Lines, in that low and deſart Country, later than this time, can be hoped for; and That the Tangent to the Circle of *Newcaſtle* depends, as much, upon running the Eaſt and Weſt Line from Cape *Hinlopen*, as the
669 ſame Tangent does upon the Circle.—Before we leave this Matter, we muſt, in Anſwer to your mention of Age and Infirmities and Fatigues, take notice that the Commiſſioners of *Maryland* have conſtantly attended the ſeveral Meetings, at *Newcaſtle*, notwithſtanding the moſt ſevere Seaſon that has been for many Years known, notwithſtanding the very great Diſtance from the Habitations of the Commiſſioners of *Maryland*, and notwithſtanding the Debates and Diſagreement amongſt the Commiſſioners might, as well have been
670 held at any other Place, as at *Newcaſtle*. Thus, we doubt not of our having removed every ſurmiſe of our entertaining any other than a laudable View in the Execution of the Articles, and, upon the whole, with the ſame Frankneſs as we have hitherto uſed, we cannot help ſaying that, in our Opinion, no other Conſequence can ariſe, from our Differences in Judgment, and your Refuſal to proceed to Cape *Hinlopen*, than that, either, the Commiſſioners ſhould continue at *Newcaſtle* till the 25th of *December* 1733,
671 without running the Circle, or, depart from *Newcaſtle*, without further Adjournment; which we leave to your Conſideration, 19th *November* 1733. The Original, whereof this is a Copy, was delivered by the Commiſſioners of *Maryland*, to us, the Commiſſioners of *Penſilvania*, contained in 16 Papers in Folio. *Iſaac Norris*, *Sam. Preſton*, *James Logan*, *A. Hamilton*, *James Steele*.

emb. 20. To the Commiſſioners appointed on the part of *Maryland* for running, marking and laying out the Limits and Bounds between the Province of *Maryland* and the Province
672 of *Penſilvania*, *&c.* Gentlemen, Were the Matter of your Reply, of Yeſterday, to our Paper of the 17th Inſtant, as well *ſupported*, as the Manner of it is ingenious and civil, we own we ſhould find our ſelves at a loſs in anſwering it, but we muſt beg leave to ſay the Method you have taken in that reply is ſomewhat ſingular, for it is obſervable you admit what you think will not prejudice the Point you aim at, you paſs over in Silence what cannot be denied, and avoid or diſtinguiſh away ſuch Facts as (tho' true in
673 themſelves) are not to be found in what you are pleaſed to *call Minutes*, and, at the ſame time, with a maſterly Freedom, advance, on your part, *without the Aid of any Minute at all*, whatever you conceive may tend to your juſtification. Thus, you have endeavoured to juſtify the Objection made by the Commiſſioners of *Maryland* at our firſt Meeting at *Newtown*, againſt the Validity of our Commiſſion, by terming it a *prudent Caution*, and alledging that it behoved you to conſider our Powers, whether they were
674 ſufficiently ample for the Purpoſes ſo deſigned. But our Complaint was not that our *Commiſſion* was conſidered, which you *had* regularly done in comparing your own and ours together, and finding them to agree in all things with each other, and with the Articles themſelves (the Names and Titles of the Proprietors and Commiſſioners excepted) but you'll be pleaſed to remember this was not ſufficient to ſatisfy you, for, after all your Inſpection, you thought fit to object that certain Perſons, who were no Parties to the
675 Agreement, had not joined in granting our Commiſſion; nor was this Objection, however groundleſs, given up, but only for that time waved; now this Fact, *tho' not to be found in the pretended Minutes we are referred to*, is yet moſt unqueſtionably true. In the ſame manner it is, to keep up your own Words, you ſay an Inſinuation is en-
676 deavoured to be raiſed, that no Minutes of what paſſed at either of the Conferences (at *Newtown*, or the firſt at *Newcaſtle* in *October* 1732) were reduced to a certainty, and then, recommending us to the Reviſal of our Papers, you let us know there is ſuch a Minute in being of what paſſed at *Newtown*. And, laſtly, with a very civil Inſinuation, are ſo kind as to charge this Miſrepreſentation, as you have called it, to the Account of our bad Memories. And here, we muſt confeſs ourſelves at a Loſs to underſtand what
677 can be intended by an Inſinuation raiſed, that no Minutes were reduced to a certainty, but, as to the Hardſhips the Commiſſioners of *Penſilvania* alledge they have been laid under by thoſe of *Maryland*, in denying to admit of Clerks, *&c.* the Caſe is briefly thus. The Commiſſioners on the Part of *Penſilvania*, when at *Newtown*, ſtrenuouſly inſiſted
678 on having a Clerk, or Clerks, to take Minutes of our Proceedings, and, when this was refuſed us, we then further inſiſted that one of our own Number, of each ſide, might be mutually appointed for that purpoſe, and to ſign and exchange the Minutes between us; but this was, alſo, denied; nor can the Variety of Arguments that were uſed, on your Part, againſt taking any Minutes, in the juſt ſenſe of the Words, be forgotten. By one, it was alledged to be altogether unneceſſary; by another, that it would occaſion much Writing and loſs of Time; and one, in a particular Manner, expreſſed his Reſolution not to *ſign* any Papers, leſt it might occaſion his going into *England*; but not only *Mi-*
679 *nutes*, but even the word *Adjournment* was objected to, till it was proved, from the Articles themſelves, to be truly neceſſary; and then, at laſt, all we could poſſibly obtain was that a *Memorandum* ſhould be taken, in Writing. The full Contents of which are very well noted in your own fourth Paragraph to be confined to theſe Particulars, That the Commiſſioners met, the Commiſſions were produced, and it was agreed the Commiſſioners ſhould, without further Notice, meet again the 30th of that *October*, at *Newcaſtle*,
680 to proceed on the Circle. But, to our ſurprize, when theſe *Memorandums* came to be delivered, it was abſolutely refuſed, on your part, to have them ſigned in any manner at all. You, however, had one of them (you ſay) in the Hand-writing of one of our Commiſſioners, which was a Condeſcenſion, on our part, beyond what you thought fit to gratify us in, on yours; for the Duplicate we have is in the Writing of ſome Stranger, unknown to us, ſigned by no-body, and without the leaſt Mark of its being a Mi-
681 nute that can have any Weight, or be of any Force whatever: Yet this Paper, ſuch as it is, muſt, we preſume, be the ſole Foundation on which you really appear to divert your ſelves in concluding it muſt ſeem ſtrange, even to us, that, being poſſeſſed of it, we ſhould complain of the want of *Minutes*, or, that having obtained that at *Newtown*, we ſhould not be ſatisfied at *Newcaſtle* with the Expectation of the like Indulgence for the future. This we take truly to be the Senſe of what you have ſaid; yet, unhappily
682 for your way of arguing, it fell out, at our then next Meeting at *Newcaſtle*, that tho' we had been, for four ſucceſſive Days together, we do not find the leaſt Memorandum of that kind, ſave in our own Minutes only. Theſe extraordinary Methods of Obviating our juſt Complaints naturally afford Matter for a good deal of Obſervation, but we ſhall wave it, and only add, on this Subject, that, as we have always hitherto, ſo we muſt continue to differ from you in our Opinion of the beſt Method of taking Minutes,
683 tho' we are not diſpleaſed with what you were, at length, prevailed on to fall into, for the firſt time, at *Joppa*. The Commiſſioners of *Penſilvania* have, moſt truly, ſaid *it was agreed* at the firſt Meeting that the ſecond Article for running a Circle about the Town of *Newcaſtle*, being the firſt in Order, and upon which great Part of the

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Work depended, the ſaid Commiſſioners ſhould firſt meet there to proceed on that Circle, as the firſt thing neceſſary to be done by them, but ſay further, it no way appears
684 they ever alledged that theſe Words were reduced to a Minute, and yet, that this was ſo agreed, is equally true in Fact, as if it had; therefore, of what Service it could be, to the Commiſſioners of *Maryland*, to make the Remark they have done, on that Fact, more than on many others, that moſt certainly paſſed, of which none at all were noted, ſave what has been mentioned, we cannot really diſcover? The Matter in it ſelf is *indiſputably true*, and, that it was ſo agreed, amongſt the Commiſſioners, at *Newtown*, is
685 equally true, which moſt certainly is ſufficient. But to apply one of your own Words, we cannot forbear ſaying it is indeed aſtoniſhing, to us, to find that, in ſpeaking of the Difficulty ſtarted about fixing the Centre, *&c.* you declare that you can in truth ſay you apprehend the Commiſſioners of *Penſilvania*, as well as thoſe of *Maryland*, thought the
686 Objection about it of ſo much Weight that an Adjournment was readily agreed on, when, on the contrary, we think it cannot but be ſtill freſh in the Memory of every Commiſſioner then preſent, that thoſe for *Penſilvania* would *never* allow that there was any difficulty at all in it, but *always* declared they were well ſatisfied it was not eaſy to fix the Centre, and were fully impowered for it, without any Application for further Direction, in that, or any other, Point of the Articles; but, when the Commiſſioners of *Maryland* appeared ſo extreamly ſcrupulous, and declared themſelves under Difficulties, which by the Arrival of the Lord *Baltimore* their Proprietor, who was then
687 ſhortly expected, might poſſibly be removed, none of you, Gentlemen, who were then preſent, we preſume, *can forget* the great Regard we of *Penſilvania* expreſſed for the Lord *Baltimore* on that Occaſion, our hearty Wiſhes for his ſafe Arrival, and our Confidence in his Honour, that he would always ſee his own Agreement fulfilled; but his Lordſhip, it ſeems, thought not fit to interpoſe, and, from thence, alone, it aroſe, as we then, again and again, repeated it to you, that we gave way to that Adjourn-
688 ment which, in our Paper, we truely a long one; but, you ſay, ſome of our Commiſſioners, at the Meeting in *February*, expreſſed their own Thoughts that the Meeting was too early, which, in the laſt Page of yours, you have fully explained for them, in owning it the moſt ſevere Seaſon that ever has been known. Your next Paragraph (the 7th) again forces us on that moſt diſagreeable Taſk of repeating our ſurprize, but, after what we have very truely aſſerted to have been our ſole Inducement to join in
689 an Adjournment in *November* laſt to *February*; and that being under no doubts in our ſelves, we never had the Thoughts of applying to any of our Proprietors for further Direction, we hope you cannot poſſibly be any longer at a loſs to know, from which Proprietor's Commiſſioners a Solution of the ſtarted Difficulty was to be expected? We agree with the Commiſſioners for *Maryland*, that in *February*, they very much inſiſted on taking the Opinion of Mathematicians, as a Direction, or at leaſt as a Help, for
690 underſtanding the Dimenſions of the Circle mentioned in the Articles of Agreement. We alſo acknowledge, that the Commiſſioners for *Maryland* propoſed a Queſtion, which with great Sollicitation, you were prevailed upon to put into writing, but, at the ſame time, you were ſo cautious that none of your Number ſhould ſign it; and we further own, that we not only agreed, but propoſed, to hear the Mathematicians, on both ſides, ſpeak to the Dimenſions of the Circle in the Preſence of the Commiſſioners on the 3d
691 of *February* in the Forenoon; but we likewiſe ſay, what we have repeatedly ſaid before, that the true Reaſon for our propoſing to hear Mathematicians was, becauſe the Commiſſioners for *Maryland* having refuſed, as we have often noted, to admit Clerks for taking Minutes, and as the Commiſſioners for *Penſilvania* had no Evidence of any thing that paſſed between us, thoſe on our Part were forced on this Thought of getting the Mathematicians *before the Commiſſioners*, as the beſt Expedient *to have Witneſſes* to the
692 Delivery of the Anſwer we were then to make to the Queſtion of the Commiſſioners for *Maryland*; but we muſt beg you to excuſe us, for not remembering that *we* ever intended, or propoſed, to have the Anſwer of our Mathematicians *in writing* to the Queſtion propounded to us by the Commiſſioners for *Maryland*; and this Anſwer, being ſomewhat large, and the Weather very ſevere, a longer Time *than* we expected was ſpent in the Copying; whence it was, that ſome of the Commiſſioners for *Penſilvania*
693 were delayed, as we have ſaid in our Anſwer, about an Hour or two after the time of the Adjournment; and then it was the Commiſſioners of *Maryland* thought fit to withdraw, and tho', *immediately after their leaving the Room* appointed for our Meeting, ſome of our Commiſſioners, in the moſt reſpectful manner, waited upon thoſe of *Maryland*, and endeavoured to excuſe the ſmall Delay given them, requeſting them at the ſame time to return to the Place of Meeting, which was not above 200 Yards from
694 their Lodging, yet, all thoſe Endeavours were in vain, and, though you ſtayed in Town from 12 o'Clock in the Forenoon of the 3d of *February*, the Time when you thought fit to withdraw, till the next Term, yet, no Importunities could prevail on you to meet us again; no Notice, by Word, or Writing, was regarded; and, notwithſtanding ſome of you were told by us that the ſmall Delay of an Hour or two was, neither in Law, or Equity, any Breach of the Articles, and that we were ſure you would
695 not venture to depend on it, but would find your ſelves under a neceſſity of meeting us again, yet, ſo pleaſed were ſome of the Commiſſioners for *Maryland*, with the imaginary Advantage, that you left *Newcaſtle*, and returned home, unkindly endeavouring (at leaſt, ſome of you) to bring the Commiſſioners of *Penſilvania* under ſevere Cenſure for their neglect of their Duty. We hope to be excuſed if we cannot be ſo very courteous as to believe the Lord *Baltimore*'s *only* View, when he wrote the Letter referred to in your
696 Paper, was to permit his Commiſſioners to endeavour the Execution of the Articles; for we have much more reaſon to believe that his Lordſhip, from the Reſult of his own good Judgment, knew well that your Departure from *Newcaſtle*, in the manner before-mentioned, would be conſtrued a direct Breach of the Articles on his Part, if the ſame could not be remedied by your meeting us again; but, as it ſeems agreed that his Lordſhip's Letter to our Governour was not a Notice within the meaning of the Articles, we cannot but
697 obſerve the great Regard you paid to our Notice given you to meet us at *Newcaſtle* the 16th of *April* laſt; but, as in many other Inſtances, ſo, in this neglect of our Notice, you plainly ſhew at the ſame time your Opinion of our Authority and your own readineſs (as you call it) to do every thing in your Power to forward the Execution of the Articles of Agreement. It is indeed very kind, in the Commiſſioners of *Maryland*, ſo frequently to put us in mind of what you modeſtly call our Forgetfulneſs, and, to be as civil as we can the ſame
698 way, we deſire *you* to remember, that what is contained in the Papers exchanged at *Joppa*, more than a ſmall Part of what had been frequently and more largely talked to and treated of before that Time and the Adjournment, is *only* your Propoſal of our going from thence to Cape *Hinlopen*, the Meaning of which we perfectly well underſtood; and, when you
699 found we were not ſo eaſily to be impoſed on, by ſuch a Feint, you were pleaſed frankly to own that you, or ſome of you, were, at that Time, obliged to attend the Lord *Baltimore* to *Burlington*, and then propoſed to meet at *Philadelphia* about the Time you expected his Lordſhip might be there; to which, for your Conveniency, we agreed, though you thought it worth your while to oppoſe having *that inſerted* in the Minute of Adjournment; and, for the Truth of this, we need not rely on the *Memory* of the Commiſſioners
700 on either Side: As we have been always ready to acknowledge every Truth alledged by the Commiſſioners for *Maryland*, ſo we now own what you ſay, that you have been very ready to make Propoſals, and offer Expedients, *&c.* but we beg leave to ſay they muſt appear in *another* Light to us, than they have hitherto done, before we can agree theſe Propoſals and Expedients had any tendency to the *Execution* of the Articles in the Terms in which they are expreſſed, or as they are generally underſtood. As to the Propoſal of
701 going to Cape *Hinlopen*, at this time you will excuſe, for ſaying we well know it to be nothing *but Amuſement*, and had we aſſigned no other Reaſon than this, for what we have ſaid on that Head, you have now furniſhed us with a ſufficient one, when you inſiſt that no other Conſequence can ariſe from our Difference in Judgment, but that, either, we muſt ſtay at *Newcaſtle* till the 25th of *December*, or depart, without Adjournment; now, after this plain Declaration, that the Circle *muſt not* be run, is it
702 not as plain a Conſequence that the running of the Line can be to no purpoſe? We are ſorry we have occaſion to repeat, what we have ſo often ſaid, but as, in our Opinion, it is beyond all exception, juſt, we muſt ever abide by it, and ſay that it is, by running a Circle at the Diſtance of 12 Miles from the Town of *Newcaſtle*, only, that the Work
703 enjoined us can be done according to the Tenor and Directions of our Commiſſions, for, other Authority, you, nor we, have none. And, notwithſtanding you ſeem to be determined, which perhaps with too good Reaſons you believe muſt conclude us, yet, the juſt Views which appear throughout our whole Conduct in this Affair, we hope at leaſt will be approved of by Superiors. *Newcaſtle, Nov.* 20th, 1733. *Iſaac Norris, Sam. Preſton, James Logan, A. Hamilton, James Steele.*

Nov. 22. To the Commiſſioners appointed on the Part of *Penſilvania*, for running, marking, and laying out the Lines, Limits, or Bounds, between the Province of *Maryland* and the
704 Province of *Penſilvania*, &c. Gentlemen, It is with ſo much Reluctance we give you, or ourſelves, any further trouble at this Time, in Vindication of our Conduct, truly repreſented, and juſtly ſupported, in the Paper of the 19th Inſtant, that we ſhall content ourſelves with ſome *few* Remarks in Anſwer to your Paper of the 20th Inſtant. Firſt, In our Detail of the Tranſactions between the Commiſſioners at ſuch Meetings where any Minute was taken, we rely on ſuch Minute for the Truth of what paſſed. In order to avoid
705 the Force of this, you are pleaſed to endeavour, at one time, to diſtinguiſh away the Writing we called a *Minute* into ſomething you name *Memorandum*; what eſſential Difference this Diſtinction makes, your own good Judgment will ſuggeſt. At another time you urge, that there were other Proceedings than what were contained in ſuch Minutes, as in the Inſtance of the Minutes (for ſo we think we may call it) taken at *Newtown*, and the Minute taken at *Joppa* on account of the Adjournment; although we will not preſume to queſtion
706 your Candour, in declaring what you poſitively remember, yet, we hope, a Truth, or Miſtake of a material Fact, is much better proved from what was reduced into Writing, at the Time in which ſuch Fact was ſuppoſed to have happened, than from the Uncertainty of Opinions, Memories, or Apprehenſions. And what alledge to have been agreed on at *Newtown*, *viz.* that it was firſt *neceſſary* to run the Circle about *Newcaſtle*, proves the little Dependance to be had on Memory, for it ſeems *improbable* that that ſhould be
707 agreed to be the firſt neceſſary Work, ſince the Tangent does no more depend on the Circle, than on the Line from Cape *Hinlopen*. Secondly, At ſuch Meetings, where no Minute or Memorandum happened to be taken, we have been ſo fortunate as to advance nothing that can be denied. And we muſt confeſs, Gentlemen, you have ſhewn, in your Admiſſions, a ſtrict Regard to Truth; but, at the ſame Time, you have attempted, with wonderful Dexterity, to varniſh over, and give the Fact a different Hue, from
708 which it ought to appear in. As, for Inſtance, you think fit to own, that the Commiſſioners of *Maryland* inſiſted upon having the Opinion of Mathematicians as a Direction, or at leaſt a Help, for underſtanding the Dimenſions of the Circle; and that the Commiſſioners of *Penſilvania* not only agreed, but propoſed, to hear the Mathematicians ſpeak to the Dimenſions of the Circle in the Preſence of the Commiſſioners of *Maryland* on the 3d of *February* in the Forenoon; but, indeed, you alſo ſay, that the true Reaſon for the
709 Commiſſioners of *Penſilvania* propoſing to hear Mathematicians was, becauſe the Commiſſioners of *Maryland* had refuſed to admit Clerks for taking Minutes, and as the Commiſſioners of *Penſilvania* had no Evidence of any thing that paſſed, thoſe of the *Penſilvania* Commiſſioners thought of getting the Mathematicians before the Commiſſioners, as the beſt expedient to have Witneſſes to the Delivery of the Anſwer the Commiſſioners of *Penſilvania* were then to make to the Queſtion of the Commiſſioners of *Maryland*. It is not
710 ſaid, nor can it be pretended (for we doubt not you would have ſpoke the Truth) that that true Reaſon was ever mentioned to the Commiſſioners of *Maryland*, and the Commiſſioners of *Maryland*, who have been always free, candid, and ſincere, in this Tranſaction, never could ſuppoſe any reſerve, or private meaning, in the Commiſſioners of *Penſilvania*, nor can the Commiſſioners of *Maryland* conceive the eſſential Parts of the Facts to be leſs true and ſufficient for their Juſtification, becauſe the Commiſſioners of *Penſilvania* had private
711 Reaſons for agreeing to ſuch Propoſals or Facts. You give us an undeniable Inſtance of yielding to the Force of Truth, when, in your Paper of the 20th Inſtant, you deſire us to remember, that what is contained in the Papers exchanged at *Joppa*, more than a ſmall Part of what had been frequently and more largely talked to and treated of before that Time and the Adjournment, was *only* the Commiſſioners of *Maryland*'s Propoſal of going to Cape *Hinlopen*; ſo that a ſmall Part of what had been more frequently and more
712 largely talked to, *&c.* is plainly admitted to have been propoſed at *Joppa*; and that ſmall Part, as you are pleaſed to term it, was to run out the Circle in the manner the Commiſſioners of *Maryland* conceived, and alſo to receive Information from Mathematicians about the Dimenſions of the Circle; from whence it appears the Commiſſioners of *Maryland* had ſomething elſe to propoſe to the Commiſſioners of *Penſilvania* than the going to Cape *Hinlopen*, mentioned in your Paper of the 17th Inſtant. Nothing can more fully
713 evince the exactly honourable Part his Lordſhip took, in what happened between the Commiſſioners, than the Direction he was pleaſed to give his Commiſſioners to renew the Meeting after the Default of the Commiſſioners of *Penſilvania*, and his Refuſal to interpoſe in the Explanation of the Articles; by the Firſt, he ſhewed his generous Willingneſs that the Articles ſhould be executed, and, by the laſt, he declared he would not influence the Judgment of the Commiſſioners in the manner of Execution. What we have further
714 to obſerve is, the Miſapprehenſion you have entertained, either of our Declaration, or Determination, that the Circle *muſt not be* run. We do not inſiſt, but declare our Opinion, that no other Conſequences can ariſe, from our Differences in Judgment, and your Refuſal to proceed to Cape *Hinlopen*, than, that either the Commiſſioners ſhould continue in *Newcaſtle*, until the 25th of *December* 1733, without running the Circle, or depart from *Newcaſtle*, without further Adjournment, which Opinion, we apprehend, is very diffe-
715 rent from a Determination that a Circle muſt not be run. We have never aſſumed, nor even pretended to, a maſterly Freedom, but, by a Liberty becoming Truth, we hope we have done Juſtice to our own Behaviour in the Opinion of our Superiors. *Newcaſtle*, 22d of *November*, 1733. The Original, whereof this is a Copy, was delivered to us, the Commiſſioners of *Penſilvania*,—*Iſaac Norris, Sam. Preſton, James Logan, A. Hamilton, James Steele.*

Nov. 23. 716 To the Commiſſioners appointed on the Part of *Maryland* for running, marking, and laying out the Lines, Limits and Bounds between the Province of *Maryland* and the Province of *Penſilvania*, *&c.* Gentlemen, At our firſt Meeting here, on the 14th of this Inſtant, purſuant to our Adjournment in *September*, you were pleaſed to ſay, as you have often before told us, that you could *not* agree in running a Circle at the *Diſtance* of 12 Miles *from the Town* of *Newcaſtle*, and on the 16th propoſed to us, in Writing, to go to Cape *Hinlopen*, in
717 order to proceed in fixing the Cape as you were pleaſed to expreſs it. We, in anſwer to that Propoſal, found it neceſſary to ſhew that, in our Opinion, our Proceeding on that
718 Part of the Work could be to no Purpoſe, if the other muſt be left undone. At the ſame time obſerving how, upon all Occaſions, you ſeemed fond of *expreſſing* your great Readineſs and Willingneſs to do every thing that in your Opinion might contribute to the Execution of the Articles. Thoſe Profeſſions let us naturally into an Examination of the *Conduct* of the Commiſſioners of *Maryland*, under the all Changes that have been in your Commiſſions ſince the firſt Appointment, even from our firſt Meeting at *Newtown*, a
719 Place ſo often mentioned, and to ſet the whole in a true Light, from whence, it might eaſily be ſeen, how far your *Profeſſions*, and the manner of your *Proceedings*, agree. This Attempt of ours as naturally drew on a Recollection of the Proceedings of the Commiſſioners on your Part, and then, your Repreſentation, we found, made it, again, neceſſary, in ours, to ſtate the Proceedings of the Commiſſioners on both Sides, in a manner as we preſume could be liable to no Objection. You, in return to this, in your Paper of Yeſterday, profeſſing a Reluctance to give us, or your ſelves, any further Trouble in the Vindication of your Conduct, duly repreſented, and juſtly ſupported (as you are pleaſed
720 to ſay) in yours of the 19th, you declare, you ſhall content your ſelf with a few Remarks on our Paper of the 20th; but we muſt beg you to excuſe us, if, from all you have ſaid in either of your Papers, we cannot diſcover any thing which has weakened the force of what we have, with great plainneſs, advanced in ſupport of our Opinion, but will rather confirm us with every indifferent Perſon in the ſame; for, to obſerve on your firſt Remark, while you inſiſt on a Difference between a Memorandum and Minute, as
721 there may truly be a great one, if you will be pleaſed to take not only ours, but the Notion that all Men as we conceive muſt form, of what with any Juſtice can be called Minutes, *viz.* that they are plain and clear Notes of the *Subſtance* of what materially paſſes at the Conferences of Perſons intruſted with the tranſacting an Affair of Importance, and ſuch as derive an Authority from the Truſt repoſed in the Clerk or Clerks who take them, we ſay, if you will conſider this, it will be evident, from all that has paſſed between
722 us, the Subjects that you have fully juſtified our Complaints for the want of ſuch Minutes, and could the Commiſſioners for *Maryland* have been prevailed on to agree with us, that ſuch Minutes ſhould be taken, and rendered Authentick by proper Signers, and exchanged, which we muſt believe was neceſſary in our Caſe, they ſhould have been at full Liberty, as to us, to call them by what Name they pleaſed; yet, though they perſiſted in refuſing to allow ſuch Minutes, we were not ſo much wanting to our ſelves as to have

723 have no *other* Recourſe for aſcertaining what paſſed between us than to our Memories only; for we duly took, and kept Minutes, for our own uſe, ſome of which we once read at the Board, and though their Authority could not be admitted, by the Commiſſioners of *Maryland*, their Truth will ſtand above all Objection. The Methods we were obliged to take, at *Joppa*, for procuring ſome certain Evidence of our Proceedings, we need not mention, nor can there be any Occaſion to ſpeak further to the Affair of the Mathema-
724 ticians, the Papers that paſſed between us at *Joppa*, or the Lord *Baltimore*'s Letter to our Governor, for all theſe, we conceive, ſufficient Notice has already been taken, and therefore we ſhall only ſay, upon the Diſtinction you have endeavoured towards the Cloſe of your Paper to make, between declaring your Opinion, and your being determined, that, if we miſapprehended your Meaning, we aſſure you it was far from being a wilful Miſtake; on the contrary, it will give us a great Pleaſure to find you Charge
725 your Sentiments, and agree to run the Circle at the Diſtance of 12 Miles from the Town of *Newcaſtle*, as enjoined by the Articles; a Point from which we never can recede, and, without your Concurrence in this, we muſt be contented to ſubmit to *any* Conſequence that may ariſe from this Difference of Judgment, as you are pleaſed to call it. *Newcaſtle*, *November* the 23d 1733. *Iſaac Norris*, *Sam. Preſton*, *James Logan*, *A. Hamilton*.

24. 726 There is one Paper more contained in the Schedule to the Defendant's Anſwer; which is the Commiſſioners parting Minute of the 24th of *November* 1733; but as that is fully ſtated in Folio 347 of our Bill, and is ſet forth *verbatim* at Folio 334, in the Body of the Defendant's Anſwer, it need not be here again inſerted.

1737. *June* 15. The foregoing Anſwer was put in.
1738. *April* 13. The Defendant ſigned a Waiver of his Priviledge.
20. The Plaintiffs replied to the Defendant's Anſwer.
Nov. 27. They ſerved the Defendant with a *Subpœna* to rejoin.
Jan. 27. The Plaintiffs gave a Rule to produce Witneſſes.
Feb. 8. The Plaintiffs obtained an Order for a Commiſſion to be executed in the City of *Philadelphia*, and adjourned to the Town of *Newcaſtle*, &c. And at the ſame time it was ordered that the Defendant might take out a Commiſſion to *Maryland*.
Mar. 13. By another Order of this Date the Defendant's Commiſſion was to be executed at *Annapolis*, and adjourned to any other part of *Maryland* and the three Lower Counties.
Ap. 9. to *Sept.* 18. The Defendant's Commiſſion was firſt executed.
N. 20. to *Nov.* 29. The Plaintiffs Commiſſion was executed.
Jan. 16. The Defendant's Commiſſion was returned.
1741. *July* 30. The Plaintiffs Commiſſion was returned.
Feb. 3. The Defendant gave a Rule to publiſh.
4. The Plaintiffs, who had many Witneſſes to examine in *London*, got an Order to enlarge Publication till the firſt Day of *Eaſter* Term then next.
1742. *April* 28. The Plaintiffs obtained a further Order to enlarge Publication till the firſt Day of *Trinity* Term.
June 17. The Defendant, who had but three Witneſſes to examine here, and had himſelf given the Rule to publiſh in *February* before, obtained an Order to enlarge Publication, for a Month.
July 13. The Defendant, again, obtained another Order to enlarge Publication, for three Weeks more.
Aug. 11. Publication paſſed.

Written Evidence which is proved in the Cauſe, and which the Plaintiffs have to produce; together with ſome Occaſional Obſervations thereon.

Chap. I. From the Diſcovery of *North America* to the Grant made by the Crown of *Maryland* to Lord *Baltimore* in the Year 1632.

1584. AS Captain *Smith*'s Hiſtory, (hereafter mentioned) and many others, inform us, Queen *Elizabeth* granted *Letters Patent* to Sir *Walter Raleigh*, for the diſcovering *New* Lands and Countries, not actually poſſeſſed by any Chriſtians.—Captain *Smith*'s Folio Voyages, Fol. 2.

1606. As we are informed by Captain *John Smith*'s Hiſtory, (hereafter mentioned) he the ſaid Captain *Smith* diſcovered ſeveral Parts of *Virginia*, particularly the Bay of *Cheſopeak*, *and the Peninſula*, mentioned in this Cauſe, and went on Shore, and gave Names to ſeveral Places—Captain *Smith*'s Folio Voyages, Fol. 21, and the following Pages.

4 Jac. I. 1606. *Apr.* 10. Fol. 1. From the Chapple of the Rolls, a Copy of *Letters Patent*, under the Great Seal. *Reciting* that the King's Subjects, Sir *Thomas Gates* and divers others, had deſired Licence to make Habitation, Plantation, and to deduce a Colony, of ſundry of the King's People, into that Part of *America* commonly called *Virginia*, and other Parts and Territories in *America*, either appertaining to the King, or which were not then actually poſſeſſed by any Chriſtian Prince or People, ſcituate, lying and being, all along the Sea Coaſt, between 34 Degrees of Northerly Latitude from the Equinoctial Line, and 45 Degrees of the ſame Latitude, and, in the main Land, between the ſame 34 and 45 Degrees, and the Iſlands thereunto adjacent, or within 100 Miles of the Coaſt thereof; and, to that End, and for the more ſpeedy Accompliſhment of their ſaid intended Plantation and Habitation there, were deſirous to divide themſelves into *two ſeveral Colonies and Companies*—*The one*, conſiſting of certain Knights, Gentlemen, Merchants, and other Adventurers of the City of *London* and elſewhere, which deſire to begin their Plantations and Habitations in ſome fit and convenient Place between 34 and 41 Degrees of the ſaid Latitude, all along the Coaſt of *Virginia* and Coaſts of *America* aforeſaid—*And the other*, conſiſting of ſundry Knights, Gentlemen, Merchants, and other Adventurers of the Cities of *Briſtol* and *Exeter*, and Town of *Plymouth*, which deſire to begin their Plantations and Habitations in ſome fit and convenient Places, between 38 and 45 Degrees of
Fol. 2. the ſame Latitude, all along the ſaid Coaſt of *Virginia* and *America*, as the Coaſt lyeth—*The King grants* that the ſaid Adventurers of the City of *London* ſhall be called *the Firſt Colony*, and ſhall begin their ſaid firſt Plantation and Seat at any Place, upon the ſaid Coaſt of *Virginia* or *America*, between 34 and 41 Degrees of the ſaid Latitude; and that they ſhall have all the Lands, Woods, Soils, Havens, Ports, Rivers, &c. from the ſaid firſt Seat of their Plantation and Habitation, by the Space of 50 Miles all along the ſaid Coaſt of *Virginia* and *America*, towards the Weſt and South Weſt, as the Coaſt lyeth; and alſo, for the Space of like 50 Miles, all along the ſaid Coaſt of *Virginia* and *America*, towards the Eaſt and North Eaſt, as the Coaſt lyeth, with all the Iſlands within 100 Miles directly over againſt the ſame Sea Coaſt; and all the Lands, &c. from the Sea directly into the main Land by the Space of 100 Miles, and that none ſhall plant behind them, towards the main Land, without the expreſs Leave of the Counſell of that
Fol. 3. Colony—*And his Majeſty likewiſe grants*, that the ſaid Perſons of the Town of *Plimouth*, in the County of *Devon*, ſhall be called *the Second Colony*, and ſhall begin their firſt Plantation and Seat between 38 and 45 Degrees of the ſaid Northerly Latitude, and ſhall have all Lands, &c. in like manner, 50 Miles each way on the Sea Coaſt, and all the Iſlands againſt the Sea Coaſt 100 Miles into the Sea, and all the Lands into the main Land 100 Miles; and that none ſhall plant *behind* them, without the Leave of the Council of that Colony—*And the King* ordains, that each of the ſaid Colonys ſhall have a *Counſell*, which ſhall govern and order all Matters and Cauſes, which ſhall ariſe within the ſame ſeveral Colonys, according to ſuch Laws, Ordinances, and Inſtructions, as ſhall be given and ſigned with the King's Hand, or Sign Manual, and paſs under the Privy
Fol. 8. Seal—*And* the King grants and agrees with the Perſons of the ſaid *firſt* Colony, that he, upon Petition, will grant to them, by Letters Patent, all the Lands which ſhall be within the ſaid Precincts limited for that Colony, to be held of the King, as of the Manor of *Eaſt Greenwich*, in free and common Soccage only, and not *in Capite*—And in like manner agrees with the ſaid Perſons of the *ſecond* Colony—This is proved by *Paris* to be a true Copy from the Roll, and is Exhibit *Rocha*, N° 1.

7 Jac. I. 1609. *May* 23. Fol. 1. Fol. 6. Fol. 7. From the Chapple of the Rolls. A Copy of Letters Patent under the Great Seal, Reciting the ſaid *former* Letters Patent granted to the *Firſt* and *Second* Colony jointly; and that the ſaid *firſt Colony*, (which had already engaged themſelves in the Buſineſs of the ſaid Plantation) had requeſted a *further* Enlargement and Explanation of their ſaid Grant, Privileges, and Liberties, and that *Councellors* and other Officers might be appointed to direct and manage their Affairs, as were *not ſo remote* from *London*, but might be *ready* at hand to give Advice and Aſſiſtance on all requiſite Occaſions.—The King granted unto *Robert* Earl of *Saliſbury*, and unto 627 other Lords, Knights, Gentlemen, Merchants, Captains, and Traders, *by Name*, and unto 55 of the Companys of the City of *London*, and unto 28 other Perſons, by *Name*, that they, and thoſe who they ſhould admit, ſhould be a Body and Cominalty perpetual, and ſhould have perpetual Succeſſion, and a Common Seal, and ſhould be incorporated by the Name of *the Treaſurer and Company of Adventurers and Planters of the City of* London, *for the firſt Colony in* Virginia——And the ſaid King granted unto the ſaid Treaſurer and Company, and their Succeſſors, all thoſe Lands, Countrys and Territories in that Place of *America* called *Virginia*, from the Point of Land called Cape, or Point *Comfort*, all along the Sea Coaſt, to the Northward, 200 Miles; and from the ſaid Point of *Cape Comfort*, all along the Sea Coaſt, to the Southward 200 Miles; and all that Space and Circuit of Land, lying from the Sea Coaſt of the Precinct aforeſaid, up, into the Land, throughout, from Sea to Sea, Weſt and North Weſt: And all the Iſlands, lying within 100 Miles along the Coaſt of *both* Seas of the Precinct aforeſaid——To hold the Premiſſes to the ſaid Treaſurer and Company, their Succeſſors and Aſſigns, for ever, to their own Uſe——To be held of the King, as of the Manor of *Eaſt Greenwich*, in free and common Soccage, and not *in Capite*.—This is proved by *Bulmer* to be a true Copy from the Roll, and is Exhibit *Rocha*, N° 2.

1612. *A Quarto Book*, this Year printed at *Oxford*, (borrowed out of the *American* Library belonging to the Society for the Propagation of the Goſpel in Foreign Parts)—intitled, *A Map of* Virginia, *with a Deſcription of the Country*, &c. *written by Captain* Smith, ſometimes Governor of the Country—— At Fol. 1. and the following Pages, he gives an Account of the planting in *America* by the *Engliſh* in 1606, under the Degrees 37, 38, and 39. And deſcribes the Bay of *Cheſopeak*, and ſeveral other Rivers and Places *in that Bay*——And, at Fol. 110, he gives Captain *Smith*'s *Map* of that Part of the Country, drawn by him in 1606, of which we ſhall ſay more hereafter.——This Book is marked by *White Kennett*, Biſhop of *Peterborough*, deceaſed, who gave it, and a great Collection of other Books, to the Society, with his Name, and is proved by *Paris* to be borrowed out of the ſaid Society's *American* Library, and is Exhibit, Quarto Book, *Weſt-Indies*, B.

18 Jac. I. 1620. *Nov.* 3. Fol. 1. Fol. 2. From the Chapple of the Rolls, a Copy of *Letters Patent*, *Reciting* the former *Joynt* Letters Patent, of the fourth Year of the King, to the *firſt* and *ſecond* Colonys *both*: Reciting alſo, the *ſubſequent* Letters Patent, granted to the *firſt* Colony, to make them a diſtinct and entire Body by themſelves, giving unto them their diſtinct Limits and Bounds; Reciting likewiſe, that the King had been, *in like manner*, petitioned, by the Adventurers of the *ſecond* Colony, and their Aſſociates, to avoid all Queſtions between them and the firſt Colony, to make the Adventurers of the ſaid *ſecond* Colony one diſtinct and entire Body, and to grant them ſuch Eſtate, Liberties and Privileges as after mentioned.——Now, for as much as the King has been certainly given to underſtand, by divers good Subjects, that have for theſe many Years paſt frequented thoſe Coaſts and Territorys *between* the Degrees of 40 and 48, that there is no other Subjects of any Chriſtian King or State, or by any Authority from their Sovereigns, Lords, or Princes, actually in Poſſeſſion of any the ſaid Lands, or Precincts, whereby any Right, Claim, Intereſt, or Title, may or ought, by *that* means, to accrue or belong to them, &c. *His Majeſty grants*, that all that Circuit, Continent, Precincts, and Limits in *America*, lying and being, in Breadth, from 40 Degrees of Northerly Latitude from the
Fol. 3. Equinoctial Line, to 48 Degrees of the ſaid Northerly Latitude, and, in Length, by all the Breadth aforeſaid, *throughout the main Land from Sea to Sea*, ſhall be the Limits and Bounds, and Precincts of the ſaid *ſecond* Colony; and, to the End the ſaid Territories may, for ever, be more certainly known and diſtinguiſhed, the King wills that the ſame ſhall be called *New England* in *America*. And, for the better Plantation, Ruling, and Governing of the ſaid *New England* in *America*, his Majeſty ordains, that there ſhall be, for ever hereafter, in the Town of *Plymouth*, in the County of *Devon*, one Body Politick and Corporate, which ſhall have perpetual Succeſſion, which ſhall conſiſt of the Number of 40 Perſons, and no more, and which ſhall be called, *The Council eſtabliſhed at* Plymouth, *in the County of* Devon, *for the planting*, *ruling*, *ordering*, *and governing*
Fol. 4. *of* New England *in* America. And accordingly his Majeſty appoints the firſt 40 Perſons (conſiſting of Privy Counſellors and others) for that Council, and incorporates them
Fol. 5. and their Succeſſors, by the Name aforeſaid, with ſundry Powers and Privileges, and amongſt others to elect a *Préſident* of the ſaid Council. And his Majeſty gives and grants
Fol. 7. to the ſaid Council eſtabliſhed at *Plymouth*, and their Succeſſors, " All the aforeſaid Lands and Grounds, Continent, Precincts, Place, Places, and Territories, *viz.* That " aforeſaid Part of *America*, lying and being, in Breadth, from 40 Degrees of Northerly Latitude from the Equinoctial Line, to 48 Degrees of the ſaid Northerly Latitude, " *incluſively*, and, in Length, of and within all the Breadth aforeſaid, *throughout the main Lands*, *from Sea to Sea*. Together with all Lands, Soils, Grounds, Havens,
Fol. 8. " Ports, Rivers, &c. *Provided* always that the ſaid Iſlands, or any the Premiſſes herein before-mentioned, and by theſe Preſents intended and meant to be granted, be not " *actually poſſeſſed* or inhabited by any *other Chriſtian Prince* or State, nor be within the Bounds, Limits, or Territorys of that *Southern Colony*, heretofore by us granted." To hold to the ſaid Council, their Succeſſors and Aſſigns, for ever, to their own ſole Uſe, to be held of the King, as of the Manor of *Eaſt Greenwich*, in Soccage, and not *in Capite*——This is proved by *Bulmer* to be a true Copy from the Roll. And is Exhibit, *Rocha*, N° 3.

Note, Suppoſing that no State *had been poſſeſſed* of any Part of theſe Lands, (tho' it is certain the *Dutch* and *Swedes were*) yet, ſo long as the foregoing Grant to the Council of *Plymouth* ſubſiſted, (which it did, *until long after* the Grant of *Maryland* was made to Lord *Baltimore*) the 40th Degree *incluſively*, was granted for Part of *New England*; and, conſequently, no Part of that 40th Degree, while that Grant ſubſiſted, could be *regranted* by the Crown, either to Lord *Baltimore*, or to any other Perſon.

1624. *A Folio Book*, this Year printed in *London*, intitled, *The General Hiſtory of* Virginia, New England, &c. from their firſt Beginning, *Anno* 1584, to this preſent 1624. With the Proceedings of the ſeveral Colonies, &c. alſo the Maps and Deſcriptions of all thoſe Countries, &c. divided into ſix Books. By Captain *John Smith*, ſometimes Governor in thoſe

thoſe Courtries, and Admiral of *New-England*, This is the Book, mentioned in the Bill and Anſwer. At Fol. 41. he gives his Map of *Virginia*, *again*, as done in 1606, being a Copy of that which had been printed in the former Edition of his Work before, in 1612. And at Fol. 21. he gives the *ſame* Account, again, of the Diſcovery, and going a-ſhore, and giving Names to Places, *in the Bay of Cheſopeak*, and upon the *Peninſula*, mentioned in the Pleadings in this Cauſe.—Two ſeveral Copies of this Folio Edition are ſpoken to by *James Logan*, *Benjamin Eaſtburne*, and *F. J. Paris*, as well as occaſionally mentioned by other Witneſſes. And theſe Exhibits are *Smith*'s Folio Hiſtory, and *Smith*'s Folio Hiſtory J. S.

1625. Another *very large Folio Work*, this Year printed in *London*, intitled, *Purchas his Pilgrims*, in 5 large Volumes. This Work is a well known Collection of *vaſt Numbers* of different Voyages and Diſcoveries. And, amongſt others, the 4th Volume thereof contains, at Fol. 1691, the Deſcription of *Virginia* by Captain *John Smith*, enlarged out of his written Notes. This contains, exactly, the *like* matter as the two former printed Editions of his Works, of the Years 1612, and 1624. And it alſo contains another Copy, *exactly like the former*, of Captain *Smith*'s Map made of *Virginia* in 1606.—This Book is ſpoke to by *Paris* (and ſome other Witneſſes) and is the Exhibit, *Purchas*'s *Pilgrims*, Vol. 4.

Note. The great Uſe of theſe *ſeveral Editions* of Captain *Smith*'s Hiſtory and Map is, to ſhew that his Map was *thrice* printed and publiſhed in *England*, in 1612, 1624, and 1625, and ſo, muſt have been well known in 1032.

Note alſo, By all the three early Editions of Captain *Smith*'s Map, the Line of the 40th Degree of Northerly Latitude, *compleat*, was laid down to be no more than 7 Miles more North, than the *Head* of *Cheſopeak Bay*.

Note likewiſe, Every one of theſe *three* Editions of Captain *Smith*'s *Map*, contains the following Names and Deſcriptions of Places, which we ſhall by and by find to be mentioned in the Grant of *Maryland*, *viz.* It ſhews that there is a *Peninſula*; it contains the Names of the *Bay of Cheſopeak*, *Watkins Point*, *the River of Wighco*, *the River Patowomeck*, *the Place called Cinquak*, and *Cape Charles*.

1630. *July* 15. An Exemplification, or Inſpeximus, under his Majeſty's great Seal of the Province of *New York*, of the following Record, remaining in the *Secretary's Office* of that Province, (being proved additionally by two Witneſſes in the Cauſe, *viz.* *Thomas Noxon* and *William Vandeſpiegel*, to contain *a true Copy*, and alſo *a true Tranſlation*, of a Book of *Dutch* Patents, in the following Words, *viz.* ——*We, the Director and Council of* New Netherland, reſiding on the Iſland *Manhatans*, and Fort *Amſterdam*, *under the Government* of their High and Mightyneſſes the Lords *States General* of the *United Netherlands*, and the incorporated *Weſt-India Company* at the Chamber of *Amſterdam*, teſtify and declare by theſe preſents, that on the Day of the Date hereunder written, before us, in their own Perſons, came and appeared *Queſtakotts*, *Ellſongues*, *Sironckuſou*, and Inhabitants of their Town, ſcituate on the *South* Corner of the *Bay* of the *South River*, and declare, voluntarily, and *by the eſpecial Direction of the Rulers*, with the Conſent of the *Common People* thereof, that they had ſince the 1ſt Day of *June* 1629, for and by reaſon of certain Parcel of *Merchandizes* which they acknowledged, before the paſſing of theſe Preſents, to their good Liking and Satisfaction, to have received in their Power and Hands, and delivered to them, in a right, juſt and free Property to have tranſported, releaſed, given over and aſſigned, as they do by theſe Preſents tranſport, releaſe, give over and aſſign, for and to the behoof of the Honourable Mr. *Samuel Godyn*, now abſent, on whoſe Words we, on due Stipulation, do accept thereof, to wit,

The Lands, to them belonging, ſituate on the South-ſide of the *ſaid Bay*, called by us the Bay of the *South River*, ſtretching in length from *Cape Hindoop* to the Mouth of the ſaid South River, about 8 *large* Miles, and up into the Country, in the breadth of half a Mile, ſtretching to a certain Cowplace or Meadow; by which ſaid Meadow theſe Limits may be, evidently, on Sight diſtinguiſhed.

And that, with all the Action, Rights, and Juriſdiction, to them, and their aforeſaid Quality, belonging; conſtituting the ſaid *Godyn* in their ſtead, Eſtate, real and actual Poſſeſſion of the ſame; and giving him and his Aſſigns full Power and Authority to enter on, poſſeſs, uſe and retain the ſaid Land; and thereof to tranſact and diſpoſe, as with his own lawful acquired Lands; without the Releaſors any Right in the leaſt thereto, having, reſerving or keeping, but warranting the ſame againſt all perſons. All on good Faith, without Fraud or Deceit, *&c.* In witneſs whereof we have confirmed theſe preſents with our uſual Signature and our Seal hereto appending. Done on the Iſland of *Manhatans* 15 *July* 1630.——This is Exhibit *Dutch* Records, *New-York* N° 2. Fol. 3.

Note. *This* not only ſhews that the *Dutch* were poſſeſſed of *Manhatans* (which is now *New-York*) in 1630, but had a *Director* and *Council* there, ſo *early*. And that this Purchaſe, by a *Dutchman*, ſo early as 1629, of Lands from the *Indian* Natives, from Cape *Hinloop* in the Bay of the South River, (now *Delaware Bay*) was paſt and recorded before the *Dutch* Director and Council of *New-Netherlands* (now *New-York*.) Of all which, there will be no ſort of doubt, preſently.

8 Car. I. 1632. *June* 20. We have an Order that the Defendant ſhall produce his *Original Charter*, under the Great Seal, for *Maryland*, which he ſays, in his Anſwer, runs in theſe Words, *viz.*

REX *&c.* Omnibus ad quos *&c.* Salutem. Cum perdilectus & perquam fidelis ſubditus noſter, *Cecil Calvert*, Baro de Baltimore in Regno noſtro Hiberniæ, filius & hæres *Georgii Calvert* Militis, nuper Baronis de Baltimore in eodem regno Hiberniæ patris inhærens veſtigiis laudabili quodam & pio Chriſtianæ religionis pariter, & imperii noſtri territorii dilatandi Studio flagrans, licentiam noſtram, ut copioſam Anglicanæ gentis Coloniam, induſtria & impenſa ſua, ad certam quandam regionem, *inferius deſcribendam*, in terra quadam, in partibus Americæ, *haſtenus inculta*, & barbaris nullam divini Numinis notitiam habentibus in partibus occupata, deducere poſſit, totamque *illam* regionem, cum certis quibuſdam privilegiis, & juriſdictionibus, ad coloniæ ſuæ, & regionis prædictæ ſalubre regimen & ſtatum pertinentibus, a regia noſtra celſitudine, ſibi & hæredibus ſuis dari, concedi & confirmari, humiliter ſupplicaverit;——*Sciatis igitur* quod nos, pium & nobile, præfatorum Baronum de Baltimore, propoſitum & ſtudium, regio favore proſequentes, ex gratia ſpeciali, certa Scientia & mero motu noſtris, dedimus, conceſſimus & confirmavimus, & per hanc præſentam chartam noſtram, pro nobis, hæredibus & ſucceſſoribus noſtris, præfato *Cecill'* modo Baroni de Baltimore, & hæredibus & aſſignatis ſuis, damus, concedimus & confirmamus,

Totam illam partem peninſulæ, ſive cherſoneſus, jacentis in partibus Americæ, inter *oceanum* ex oriente, & ſinum de Cheſſopeake ab occidente; a reſid' ejuſdem, per rectam lineam a promontorio ſive capite terræ, vocato *Watkins Point*, juxta ſinum prædictum prope fluvium de Wighco ſcituat. ab occidente, uſque ad magnum Oceanum, in plaga oriental' ductam, diviſam; Et, *inter* metam illam a meridie, *uſque ad partem illam æſtuarii de Delaware*, *ab aquilone*, *quæ ſubjacet quadrageſimo gradui latitudinis Septentrionalis*, ab æquinoctiali, *ubi terminatur Nova Anglia*.

Totumque illum terræ tractum, *infra metas ſubſcriptas*; *viz.* tranſeundo, a dicto æſtuario vocato *Delaware Bay*, recta linea, per gradum prædictum, uſque ad verum meridianum primi fontis fluminis de *Paſtowomack*, deinde, vergendo, verſus meridiem, ad ulteriorem dicti fluminis ripam, &, eam ſequendo, qua plagam occidentalem & meridionalem ſpectat, uſque ad locum quendam, appellatum *Cinquak*, prope ejuſdem fluminis oſtium ſcituatum, ubi in præfatum Sinum de *Cheſſopeak* evolvitur, ac, inde, per lineam breviſſimam, uſque ad prædictum promontorium, ſive locum, vocatum *Watkins Point*, (ita quod totius terræ tractus per lineam prædictam, inter magnum oceanum & *Watkins Point* divis' uſque ad promontorium vocatum *Cape Charles*, & ſingula ſua appenditia, nobis, hæredibus & ſucceſſoribus noſtris, integre remaneant excepta, imperpetuum.)

Necnon omnes inſulas, & inſululas, infra limites prædictos.

Concedimus etiam, & confirmamus, eidem Baroni de Baltimore, hæredibus & aſſignatis ſuis, omnes & ſingulas inſulas, & inſululas, ab *orientali* prædictæ Regionis littore *orientem*, verſus in mari, natas, vel naſcendas, infra decem leucas marinas, ab eodem *littore* ſcituatas; Cum omnibus & ſingulis portubus, navium ſtationibus, æſtuariis, fluminibus, & fretis, ad regionem, vel inſulas prædictas, pertinentibus; *Omneſque* fundos, terras, campeſtria, ſilvas, montana, paludes, lacus, flumina, æſtuaria, & freta, infra metas, terminos & limites prædictos, ſcituata, ſeu exiſtentia, *&c.*——*habend'* tenend' poſſidend' & gaudend' prædictam regionem, inſulas, inſululas, & cætera præmiſſa, præfato modo Baroni de Baltimore, & hæredibus & aſſignatis ſuis, ad ſolum & proprium opus & uſum ipſius modo Baronis de Baltimore, hæredum & aſſignatorum ſuorum, imperpetuum;——*Tenend'* de nobis, hæredibus & ſucceſſoribus noſtris, Regibus Angliæ, ut de Caſtro noſtro de *Windſore*, in comitatu noſtro *Berks*, in libero & communi Socagio, per fidelitatem tantum pro omnibus Servitiis, & non in Capite, nec per Servitium militare.

Note. We ſay *no* other *Engliſh Map*, of thoſe Parts, was then extant, but Captain *Smith*'s *only*.

This laſt Charter has *ſuch Names* of Places in it, that it is *beyond Preſumption*, that it was deſcribed from Captain *Smith*'s Map.

We defy the Defendant to ſhew any Map, *Engliſh or foreign*, of that Time, but Captain *Smith*'s only, that has all thoſe Names of Places in it which are mentioned in his Charter.

And the Defendant will be under ſome Difficulty, to make *a Part of a Peninſula*, (which is the *firſt* Deſcription in his Charter) mean to extend above the *whole* Peninſula into the *main Continent*, up to the 40th Degree compleat.

He will be under the greater Difficulty, to make ſuch a Part of the Peninſula, as is bounded *Eaſtward* by the Sea *only*, extend up in to the main Continent, above all the *Bay* and above great Part of the *River* of *Delaware*; *neither* of which are mentioned for his Eaſtern Boundaries.

He will be under a third Difficulty, as his Bounds are taken from the South, and extend Northwards, only, *uſque ad* ſuch Part of the *Bay of Delaware* on the North as lay under the 40th Degree, to extend it all through the whole 70 Miles of that 40th Degree, quite up to the 40th Degree *compleat*, eſpecially as no Part of *Delaware Bay* runs ſo high as to the 40th Degree, but the very *Head* of that *Bay* is proved to be 30 Miles *below Newcaſtle*.

And he will be under a 4th Difficulty, as by the *expreſs Words* of his Charter, his Bounds are to extend Northwards only *uſque ad* ſuch Part of *Delaware Bay* as lays under the 40th Degree, *where New-England ends*, to extend thoſe Bounds to the Head and further Part of that Degree, when, we ſee, that *New-England* had, *before*, the whole 40th Degree *incluſively*, granted to *it*.

So that *every* Deſcription *whatever*, contained in his Patent, (and, by the way, every ſubſequent Deſcription, at any Time *afterwards* made by the *Crown*) all confine him to the 39th Degree compleat.

And, when ſo confined, then, his Anceſtor aſked, and the Crown granted, nothing but what was *haſtenus inculta*.

Under the laſt Chapter in this Brief, before we come to the Depoſitions, will be contained the *Opinions* of three great Lawyers, relating to the Conſtruction of Lord *Baltimore*'s Charter; which, tho' not *Evidence*, nor yet proved in the Cauſe, are yet extremely well worth the perual, and *much to our purpoſe*.

Chap. II. From the Lord *Baltimore*'s Grant in 1632, to the End of the Year 1663; during all which Time the *Dutch* and *Swedes* remained in the quiet Poſſeſſion of what is now *New York*, and alſo of *Delaware*, which now makes the three Lower Counties, free from any Claim by Lord *Baltimore*, or by the *Engliſh* Crown, (and in one ſingle Inſtance, down lower than 1663, *viz.* to 3 *July* 1664.)

1633. *June* 28. AN Order of Council in the following Words. At the Star-Chamber, preſent Lord Keeper, Lord Privy Seal, and eleven other Lords. Whereas a Petition, heretofore preſented to the Board by the Adventurers and Planters of *Virginia*, ſhewing, that, by reaſon of ſome Grants lately obtained of a great Proportion of Lands, and Territories, within the Limits of their Colony and Places of their Traffick, they were much prejudiced and diſcouraged in the Proceeding with the ſaid Plantations, was, by his Majeſty, referred to the Conſideration of the Board, to the end their Lordſhips might examine and report the true State thereof, together with their Opinions concerning the ſame. This Day, the Lord *Baltimore*, who hath a Grant from his Majeſty of a Proportion of the ſaid Lands, and divers of the principal Adventurers and Planters, being called before the Board, and their Lordſhips having heard the Allegations then made, on both Sides, did, for the better preparing of the Buſineſs againſt their next Sitting (appointed to be on *Wedneſday* next) Order and direct, that the Lord *Baltimore*, and two or three of the ſaid principal Adventurers, ſhould forthwith meet, and confer together, and endeavour, amongſt themſelves, *to accommodate* the Points in difference, ariſing between them, or ſo many of them as they could, and to ſet down the ſame ſo agreed on in Writing; as likewiſe, ſuch Points, wherein they ſhall differ, together with their Exceptions and Reaſons; and to preſent the ſame to the Board, at their ſaid next Sitting; at which Time they are, likewiſe, to bring with them a Map of the ſaid Plantation, upon View whereof their Lordſhips may better diſcern how the Proportion granted to the Lord *Baltimore* is limited and bounded.——This is proved to be a Copy from the Council-Regiſter by *Dickenſon*, and is the Exhibit, Co-Off. N° I.

July 3. Another Order of Council in the following Words. At the Star-Chamber. Preſent Lord Keeper, Lord Privy Seal, and 8 other Lords. Whereas an humble Petition of the Planters in *Virginia*, was preſented to his Majeſty, in which they remonſtrate, that ſome Grants have lately been obtained of a great Proportion of Lands, and Territories within the Limits of the Colony there, being the Places of their Traffick, and ſo near to their Habitation, as will give a general Diſheartening to the Planters, if they be divided into ſeveral Governments, and a Bar to that Trade which they have long ſince exerciſed towards their Supportation and Relief, under the Confidence of his Majeſty's Royal and Gracious Intentions towards them, as by the ſaid Petition more largely appeareth; For as much as his Majeſty was pleaſed, on the 12th of *May* laſt, to refer to the Board the Conſideration of this Petition, that, upon the Advice and Report of their Lordſhips, ſuch Order might be taken as to his Majeſty's Wiſdom ſhould ſeem beſt. It was thereupon ordered, on the 4th of *June* laſt, that the Buſineſs ſhould be heard the ſecond *Friday* in this Term, which was the 28th of the laſt Month; and that all Parties intereſted ſhould then attend, which was accordingly performed; And their Lordſhips, having heard the Cauſe, did then order that the Lord *Baltimore*, being one of the Parties, and the Adventurers and Planters of *Virginia* aforeſaid, ſhould meet together, between that Time and this Day, and accommodate their Controverſy, in a friendly manner, if it might be; and likewiſe ſet down in Writing, the Propoſitions, made by either Party, with their ſeveral Anſwers, and Reaſons, to be preſented to the Board this Day, which was likewiſe accordingly done. Now, their Lordſhips having heard and maturely conſidered the ſaid Propoſitions, Anſwers, and Reaſons, and whatſoever elſe was alledged on either part, did think fit to *leave the Lord* Baltimore *to his Patent, and the other Parties to the Courſe of Law*, according

according to their Desire. But, for the preventing of further Questions and Differences, their Lordships did also think fit and Order that, Things standing as they do, the Planters, on either side, shall have free Traffick and Commerce, each with other; and that neither part shall receive any fugitive Persons belonging to the other, nor do any Act which may draw a War from the Natives upon either of them. And lastly, that they shall sincerely entertain all good Correspondence, and assist each other on all Occasions, in such manner as becometh Fellow-Subjects and Members of the same State.——This is proved to be a Copy from the Council-Register, by *Dickenson*, and is the Exhibit Co-Off. N°. 2.

Note. The two last foregoing are *real* Orders of Council, and, because mentioned by Lord *Baltimore*, are here inserted; but they determine nothing, either one way or other, nor are of any Consequence in the present Matter.

35. *April* 25. A Copy from the Papers remaining in the Office of the Lords Commissioners for Trade and Plantations, of a *Minute* made and recorded at a very solemn Meeting of the President (Lord *Gorges*) and Council of *New England*, which is intitled, *A Declaration of the Council of* New England *for the Resignation of the great Charter, and the Reasons moving them thereto.* This Paper *pathetically* enumerates the Troubles, Charges and Loss of their Friends abroad, which the Adventurers had suffered, from the Time of their Grant till then; the *many* litigious Questions moved against them by the *Virginia* Company, both before the King in Council, and in Parliament at home, whereby the Adventurers grew disheartned, and that many of their ablest Supporters had died; that the *French* Ambassador had made a Claim; that, at length, other People got Patents, and intruded upon these Adventurers, and rent in Pieces his Majesty's original Grant, and these Adventurers designed Undertaking; and that Complaints coming over, to this President and Council, that had not sufficient Means to redress them, or to give Satisfaction to the Persons aggrieved, they were forced to Petition his Majesty, who referred it to the Lords to consider of the Means of Reformation; which Lords, finding fault with this President and Council, and calling for them from their Homes, far remote in the Country, at unseasonable Times, to their great Charge and Trouble, whereupon the President and Council, after clearing themselves, referred it to the Lords, to do what *they thought* fit; who found Matters so desperate, as that they saw a Necessity for his Majesty to take the *whole Business* into *his own* Hands, if this President and Council could not rectify what was brought to ruin; who, finding it a Task too great for them to perform, rather *chuse to resign all into his Majesty's Hands*, to do as *he* pleased.——After all these Troubles, and upon these Considerations, it is now *Resolved, that the Patent shall be surrendred to his Majesty*, with Reservation of all such Rights as any have been seized with; that it may please his Majesty to pass *particular Grants* to the *President* and Council, of such Proportions as they have mutually agreed upon, and as are before recorded in that Book: And so much they have thought fit to be recorded, that *Posterity* may know the *Reasons* and *Necessities* moving them to quit themselves of those Inconveniencys and Dangers, &c.——This is proved to be a true Copy by Mr. *Gellibrand*, and is the Exhibit *Botra* N° 1.

May 1. A Copy from the Original Papers remaining in the Board of Trade, of *a Petition to the King, from* Edward *Lord* Gorges, *President of the Council of* New England, *in the Name of himself, and divers Lords and others of the said Council*, setting forth that, forasmuch as they were, *presently, to join in a voluntary Surrender* of the Grand Patent of their Corporation, to his Majesty, they pray his Majesty to order his Attorney General to draw Patents, for Confirmation of such Parcels of Land, as by mutual Consent in their Court had formerly been allotted to them, with such Privileges and Immunitys as heretofore they might have enjoyed with their Lands, by Virtue of the said Grand Patent.——This is proved to be a true Copy by Mr. *Gellibrand*, and is the Exhibit *Botra* N° 2.

June 7. A Copy from the Books remaining in the Plantation Office of *the Act of Surrender of the great Charter of* New England *to his Majesty*. Whereby the President and Council, reciting their said Charter of the 3d of *November*, in the 18th of King *James* the 1st, do give, grant, assign, yield up and *surrender* to his Majesty, the said Charter, and the Libertys, Licences, Powers, Privileges and Authoritys thereby granted, and all their Right, Estate, Title, Interest, Claim and Demands, of, in and to the same. In Witness whereof (it is there said) the said President and Council had caused their *Common Seal* to be thereto put; and the Entry in the Book has a Mark to it thus. L. S.——This is proved to be a true Copy from the Book, by Mr. *Gellibrand*, and is the Exhibit *Botra* N° 3.

Note. This *Original Surrender* no where appears, neither is it *enrolled* in *Chancery*; for which Reason we took in some *other* Papers *leading to it*. But, of it self, it is a Matter sufficiently *notorious*, since Seven or Eight of our present Colonys sprung up, and were created, out of the old great *New England* Charter, since the Surrender thereof.

Note also. That when the *New England* Charter was surrendred, the Crown might (then) grant the 40th Degree, if it could gain the Possession thereof.

Sept. 8. *A thin Quarto Book*, printed this Day, Month and Year, intitled, *A Relation of* Maryland, *together with a Map of the Country, the Conditions of Plantation, his Majesty's Charter to the Lord* Baltimore *translated into* English, *&c.* which gives an Account of the Adventurers under Lord *Baltimore*'s Patent going to and first landing in the Country, on the 24th of *Feb.* 1633.——At Fol. 13. there is Chap. 2. a Description of the Country, wherein it's said "*that it is seated* between *the Degrees of* 38. *and* 40. *of North* "*Latitude*, Virginia bounds it on the South, *New England on the North*, and *the Ocean* on the *East*."——At Fol. 21. it is said thus, "You shall find, in the *Southern* Parts of "*Maryland*, all that *Virginia* hath naturally; and, in the *Northern* Parts, what *New England* produceth; and he that reads Capt. *John Smith* shall see, at large, discoursed what "is in *Virginia*, and in Mr. *William Wood* (who, this Year, hath written a Treatise of *New England*) he may know what is *there* to be expected."——Again, at Fol. 38. and 39. (tho' mismark'd Fol. 22. and 23.) there is Chap 6. "*Conditions propounded, by the Lord* Baltimore, *to such as shall go or adventure into* Maryland."——Again in Fol. 41. ——"There is conveniency of Passage thither in *most* Months of the Year, and any one that will send unto Mr. *Peasley*, or Mr. *Morgan*'s House," (Note, in the Title Page it is said, that these Books were to be had of those two Persons) "may, there, be informed of the certain Time, when any of his *Lordship*'s *Company* is to go away, and so save the "Charge of unnecessary Attendance here in *London*." The whole Book, indeed, is an *Invitation* to Persons to go over and settle there.——But, what we prize it most for, it has a *fair Map of* Chesopeak *Bay, and the* Peninsula, with my Lord *Baltimore*'s *Arms* upon it. In which Map the Lines of Northerly Latitude are laid down, and *he* plainly makes his Bounds in the Map, agreeable to what had been said in the Body of that printed Book, to begin at the 38th Degree *compleat*; and to end at the 40th Degree *compleat*. So far, it is a very *early Claim* to have to the 40th Degree *compleat*; but then he makes that 40th Degree compleat, to cut the Head of *Chesopeak* Bay, and not be any thing at all above the Head of *Chesopeak* Bay: (Whereas we have now granted to him *many Miles* up into the main Continent, as a valuable Consideration for his Agreement.)——This Book is proved, in the Cause, by Dr. *Stack*, to have been 40 or 50 Years in the Custody of Sir *Hans Sloane*, a great Collector of *old Tracts*, and will be produced at the Hearing by Dr. *Stack*.

We have also an *incompleat printed Copy* of it, and a manuscript Copy of the *Map*, proved to be Copys thereof, (so far as they go,) by the same Dr. *Stack*; and is the Quarto Book *Maryland* 1635.

We have also *another Copy* of my Lord *Baltimore*'s *Map*, contained therein, spoken to by Mr. *Eastburne*, and is in a large marbled Cover.

1638. *Apr.* 4. Is the Copy of a pretended fictitious Order of the Lords of the Council, insisted on by the Defendant now; first produced and made an ill use of, before the Board of Trade, by his Grandfather, in 1685, and afterwards by the Defendant himself, *ex parte*, again, in 1734; tho' there was not then, neither is there now, any Thing like an original, or an authentick Copy of it; notwithstanding that the Council Registers, of *that very Day*, are extant, and *many other* Orders are found therein of that very Date. This *blank* Paper is in the following Words, *viz.*——At *Whitehall* the 4th of *April* 1638. Present Lord Archbishop of *Canterbury*, Lord Keeper, Lord Treasurer, Lord Privy Seal, Earl Marshal, Earl of *Dorset*, Lord *Cottington*, Mr. Treasurer, Mr. Comptroller, Mr. Secretary *Cook*, Mr. Secretary *Windebank*.——Whereas a Petition was presented, to his Majesty, by Capt. *William Clayborne*, on the Behalf of himself and Partners, shewing that, by Virtue of a Commission, under his Majesty's Hand and Signet, they, divers Years past, discovered and planted upon an Island, in the great Bay of *Chessapeak*, in *Virginia*, named by them the Isle of *Kent*, whereupon (they pretended) they had bestowed great Charges; and that the Lord *Baltimore* (as they alledged) taking Notice of the great Benefit that was likely to arise to them thereby, obtained a Patent from his Majesty, compreherding the said Island within the Limits thereof; and that they had likewise settled another Plantation, upon the Mouth of a River, in the Bottom of the said Bay, in the *Sasquesahanoughs* Country, which the said Lord *Baltimore*'s Agents there (as they alledge) sought to dispossess them of; pretending, likewise, great Injuries and Violence offered to them, in their Trade and Possessions in those Parts, by the said Agents, in killing some of the said Capt. *Clayborne*'s Men, and taking their Boats, contrary to the said Commission and the express Words of a Letter from his Majesty, under his Hand and Signet; and therefore, besought his Majesty to grant, unto the Petitioner, a Confirmation, under the Great Seal, of his Majesty's said Commission and Letter, for the quiet keeping, enjoying, and governing of the said Island, Plantations and People, with other Additaments of Lands and Immunitys in those Parts; and likewise, that his Majesty would refer the Examination of the said Wrongs and Injurys, to such as his Majesty should think fit, as by the said Petition more at large appeareth: Forasmuch as his Majesty was pleased, at *Newmarket, on the 26th of* February, 1637, *to refer* the Consideration of the Petitioners Request, unto the Lord Archbishop of *Canterbury*, the Lord Keeper, the Lord Privy Seal, and any other the Commissioners for Plantations, who should be near at Hand, and whom they pleased to call, and withal to advise with Mr. Attorney General, for the preparing and settling the Grant desired, for his Majesty's Signature, and to examine the Wrongs complained of, and certify his Majesty what they thought fit to be done for Redress thereof; whereupon all Partys attending their Lordships this Day, with their Counsel learned, and being fully heard, the said Commission and Letter being likewise read, it appeared clearly, to their Lordships, and was confessed by the said *Clayborne* himself, then present, that the said Isle of *Kent* is within the Bounds and Limits of the said Lord *Baltimore*'s Patent, and the said Capt. *Clayborne*'s Commission (as it likewise appeared) was only a Licence, under the Signet of *Scotland*, to *Trade* with the *Indians* of *America*, in such Places where the said Trade had not been formerly granted by his Majesty to any other; which Commission, their Lordships declared, did not extend, nor give any Warrant to the said *Clayborne*, or any other, nor had they any Right or Title, thereby, to the said Island of *Kent*, or to Plant or Trade there, or in any other Parts or Places, with the *Indians* or Savages, within the Precincts of the Lord *Baltimore*'s Patent; and their Lordships did likewise declare, that the aforesaid Letter, under his Majesty's Signature, which had reference to the said Commission under the Signet of *Scotland*, was grounded upon Misinformation, by supposing that the said Commission warranted the *Plantation* in the Isle of *Kent*, which (as now appears) it did not: Whereupon, as also upon Consideration of a former Order of this Board, of the 3d of *July* 1633, wherein it appeared that the Difference, now in Question, being then controverted, the Lord *Baltimore* was left to the Right of his Patent, and the Petitioners to the Course of Law; their Lordships having resolved and declared, as aforesaid, the Right and Title to the said Isle of *Kent*, and other Places in Question, to be absolutely belonging to the Lord *Baltimore*, and that no Plantation, or Trade with the *Indians*, ought to be within the Precincts of *his* Patent, without Licence from him, did, therefore, likewise think fit and declare, that no Grant from his Majesty should pass to the said *Clayborne*, or any others, of the said Isle of *Kent*, or other Parts or Places within the said Patent, whereof his Majesty's Attorney and Sollicitor General are hereby prayed to take Notice; and, concerning the Violences and Wrongs, by the said *Clayborne* and the rest complained of in the said Petition to his Majesty, their Lordships did now, also, declare, that they found no Cause at all to relieve them, but do leave both Sides therein to the ordinary Course of Justice.——This is spoke to by Mr. *Gellibrand* and Mr. *Paris*, also by *Dickenson*, and is the Exhibit *Botra* N° 4.

Now follows a great Number of *Dutch* Records, remaining in the *Secretary's Office of* New-York, authenticated from thence, under the King's Great Seal of that Province; and also their being *true Copies*, and the *Translation* of them, proved by two Witnesses in the Cause, *viz.* Messrs. *Noxon* and *Vanderstiegel*. These sort of Records now reach down (without any other sort being intermixed with them) to the 28th of *October* 1658, which is for 20 Years together.

38. *May* 6. A Copy, from a large *Dutch Book of Records*, being a *Protest*, whereby *William Kieft*, Director General of *New-Netherland*, residing on the Island *Manhatans*, and in Fort *Amsterdam, under the Government* of the *States General* of the United Netherlands, and the *West-India Company* at the Chamber of *Amsterdam*, makes known to one *Peter Minuit, Commander in the Service of the Queen of* Sweden, that the whole *South River* of New River, has been, many Years, in the *Dutch Possession*; and above and below settled by *Dutch Forts*; and also sealed with the *Dutchmen's* Blood; the which had happened, even during the said *Minuit*'s Direction in the *New Netherlands*, and was well known *to him*. Now, because the said *Minuit* comes between the *Dutch Forts*, and begins to build a *Fort* there, to the Damage and Prejudice of the *Dutch*, which, nevertheless, we the *Dutch* will *never* suffer; and we being assured the Queen of *Sweden* has given you no Orders to build in our *Rivers*, or along our Coasts: Therefore in case you proceed in the building Fortifications, manuring of Lands, and trading for Peltry, or attempt any thing to our prejudice, we protest for all Damages, Miseries, Bloodsheds and Troubles; and that we will maintain our Right, in such a manner, as we shall find most suitable.——This is *Dutch* Records *New-York* N° 2. Fol. 4.

38/39. *Feb.* 3. A Copy from the same Book of Records, of a *Judgment* given against one *Coincliffe*, for wounding a Soldier in the *Fort*, condemning him to serve the Company, along with the Blacks, to be sent by the first Ship to the *South River*, to serve the Company *there*, and to pay a Fine to the Fiscal, and Damages to the wounded Soldier.——This is *Dutch* Records, *New-York*, N°. 2. Fo. 5.

39. *March* 31. Another Copy, from the *same* Book, being an *Ordinance*, which recites that many Persons, Companies and Servants as Setlers, *do dare*, against the Orders of the States-General and the *West-India* Company, to sell to the Indians, Guns, Powder, and Lead; therefore *every* Inhabitant of *New Netherland* is *forbidden* the same, on Pain of being punished with *Death*: Also *every one* is warned, not to go, with Boats or Vessels, to *Fort-Orange*, *South-River*, or *Fort-Hope*, without a Writing from the Director-General, and, on their Return, a Note from the Factors of the said Places, residing there for the Company, on Pain of *Forfeiture* of the Ships, Vessels, and Cargoes to the Profit of the *Company*, and of further Forfeitures. Publish'd in *Fort-Amsterdam*.——This is Dutch Records, *New-York*, N°. 2. Fol. 5.

42. *May* 15. Another Copy from the same *Dutch* Book of Records, being an Order or Resolution; taking notice that some *English* had dared to come into *their South River*, across over against their Fort *Nassau*, where they had seated themselves in the *Schuilkill*, without having Commission from any Potentate, being a Matter of ill Consequence, and Disregard of their High Mightinesses, and the Interest of the *West-India* Company, whereby their Trade, which they have in the *South River*, is made useless; therefore, it's resolved, in the *Assembly*, to fetch away the *English*, from the *Schuilkill*, in the properest manner possible.——This is *Dutch* Records, *New-York*, N°. 2. Fo. 6.

May 22. Another *Order* from the *same* Book, for *Jan Jansen van Ilpendam*, Factor of the *West-India* Company, how to conform himself, in the *South River* of *New Netherland*; namely, to go, with two Sloops, and as many Men as he can procure, in the *Schuilkill, where the English have now lately taken Possession*, and demand of the English their Commission, and by what Authority they have dared to take from us *our Jurisdiction, Goods, and Commerce*, and having no Royal Commission to seat themselves in *our* Limits, he shall constrain them peaceably to depart, that no Blood be spilt: If they refuse, to secure and bring them on board the Sloops, *hither*; taking care that He remains Master,

and

and maintains the Reputation of their High Mightineſſes and the *Weſt-India* Company; and after the Departure, or Seiſing, of the *Engliſh*, to ruin the ſaid Place to the Ground. ——Done in Our *Aſſembly* at Fort *Amſterdam*, in *New Netherland*.——This is *Dutch* Records, *New-York* N°. 2. Fo. 6.

1644, *March*. From the *ſame* Book, a *Notification*, from the Fiſcal General of *New Netherland*, to one *Govert Cookermans*, that *he* ſhould not undertake, in the Company's uſual Trading-place, where the Factor *Jan Janſen van Ilpendam* uſes to trade, in the *South River* of *New Netherland*, to trade with the *Indians*; and, in caſe he ſhall do, or has done, to the contrary, then the Fiſcal General proteſts againſt him for all Damages the honourable Company ſhall ſuffer.——This is *Dutch* Records, *New-York*, N°. 2. Fo. 4.

1646, *July* 2. From the *ſame* Book, a very formal *Patent*, from *William Kieft*, Director-General and the Council, under the Prince of *Orange*, and the *Weſt-India* Company reſiding in *New Netherland*, granting to *Abraham Plack*, *Simon Root*, *Jan Andrieſon*, and *Peter Harmens*, that they may *ſettle* themſelves in the *South River*, and take *Poſſeſſion of the Lands* lying therein, almoſt over-againſt the little Iſland called *Vogels Sant*; of which Land is granted to them 100 Morgen of Land to ſettle 3 or 4 *Plantations*; under Condition to acknowledge the Managers before-named for their Lords and Patrons, under the *Sovereignty* of their High-Mightineſſes; and to be ſubject to all ſuch *Rates and Duties* as are already, or ſhall be eſtabliſh'd; and the ſaid Land is further deſcribed to be lying on the *Weſt-ſide* of the *South River*. Dated at Fort *New Amſterdam*, with Promiſe of *further Land*, provided they *build*. Signed by Order of the Director-General and Council of *New Netherland*, and their Secretary, and ſealed with red Wax.——This is *Dutch* Records, *New-York* N°. 2. Fo. 26.

1647, *Sept*. 20. From another *Dutch* Book of Orders and Reſolutions, *Propoſition* made by the General, *Peter Stuyveſant*, to the Board of the Honourable *Council*. 6. Whether *Andries Huddie* ſhall *continue* in the *South River*, or who to ſend thither; becauſe it is highly neceſſary that a fit Perſon be continued *there?* By the Director General and Council it is *reſolved* to *continue* the ſaid *Andries Huddie*, for the Service of the *Weſt India* Company, as Factor in Fort *Naſſaw*, in the *South River* of *New Netherland*, and he to have Appointment and Wages, as allowed to *other* Factors abroad.——This is *Dutch* Records, *New York*, N° 2. Fol. 26.

We have ſeen what Officer *Andries Huddie* was, under the *Dutch*.

1648, *Nov*. 17. Now follows, from the *Dutch* Records, a Report, or Repreſentation, made by *A. Huddie*, dated at Fort *Naſſaw* in *New Netherland*, 17 *Nov*. 1648, with this Title; *A ſhort, yet true, Declaration of the Proceedings of* Johan Prints, *Governor over the* Swediſh *Troops in the South River of* New Netherland, *as alſo the* Swediſh *Settlement in the ſaid River,*

Fol. 7. *found in the firſt of* November, 1645——This Piece is long, wherefore we ſhall give a ſhort Extract of it——He ſays, At the *coming in* of the River, three Miles from the Mouth, upwards, on the *Eaſtern* Shore, lyes *a Fort*, called *Elſingburgh*, garriſoned with 12, and a Lieutenant, four Cannon of 12 Pounders, and a Potſhead, and that that Fort was erected by *Johan Prints*, and, by that Fort, keeps the River cloſe to himſelf, and ſtops all Veſſels there, even thoſe of the Honourable Company, going from the *Manhatans* to their deſigned Place, even by firing at them, ſo that they muſt go up the River, about ſix Miles, to the ſaid *Prints*, for Leave to come up higher.———Further up, on the *Weſtern* Shore, in the *Mingas* Creek, lyes *a Fort* called *Chriſtina*, no *ſetled* Gariſon, but is reaſonably provided, and is the *Chief Place* of the Trade, where the Factor keeps his Reſidence, and *there* is the Magazine of all Merchandizes; and this is the *firſt* Fort that is built by the *Swedes*, under the Command of *Peter Minuit*, in the

Fol. 8. Year 1638, altho' the Company had *ſufficient Settlements*, in the River, of *Fortifications*, *Men*, and *Stores of Warr*, and that, *above* 14 *Years before the* Swedes *had*; which *Peter Minuit* has ſerved the Honourable Company as Director in *this* Country——Further, on the *ſame* Side, about two Miles up, they begin to *ſettle* ſome *Plantations*, which they continue for about a *Mile*, but the Houſes few and ſcatter'd, and ſtretch as far as about the Iſland *Tinnekonk*;——Where the Governor *Prints* reſides, lyes a pretty ſtrong *Fort* of Pine Beams, but it was burnt down, 5 *December*, 1645.——What relates to the *Schuilkill*, which are the Honourable Company's *purchaſed and poſſeſſed* Lands, He has ruin'd the Company's *Buildings*; and, inſtead thereof, erected *a Fort*, about Muſket Shot from the Creek; which Creek is the only Place left for Trade with the *Mingaes*, and, without *that* Trade, this River is of *ſmall* Importance——Further, a little *beyond* this Fort, near *Kinſeſſinge*, which has been a *Continual* Place of Trade for us with the *Mingaes*; but is now *poſſeſſed* by the *Swedes*, with a *Strong Houſe*——Further, about half a Mile, through the Woods, Governor *Prints* has erected *a Mill*, on a Creek that runs into the Sea, a little to the Southward of *Matinneconck*—And, over the Creek, a *Strong Houſe*, right upon the Path of the *Mingaes*—So there is no Place open, to draw in the *Mingaes*, as *he* has, in *his* Hands, the greateſt Power of the Trade with the River *Indians*, who go a hunting, and can't come through, without paſſing by *this* Place—The Strength of his People conſiſts in about 80 or 90 Men, at moſt, Freemen, and Servants; wherewith he muſt garriſon *all* his Places—The Fortifications and Garriſons of the Honourable Company,

Fol. 9. becauſe they are ſufficiently known, (ſays *Andrew Huddie*) is here left out—Then, he goes on to report what happened, between himſelf and the *Swediſh* Governor *Prints*, on the 23d of *June*, 1646, who ſtopt then a Veſſel, *Julian Blanck* Maſter, and Cargo, ſent to the ſaid *Huddie* for Trade to the *Schuilkill*, and of the ſeveral Debates and Conferences, and Papers, that paſs'd thereon; *Huddie* inſiſting on the Right of the *Dutch*, and their *Weſt India* Company, and Governor *Prints* inſiſting on the Right of the Queen of *Sweden*, and ſtopping that

Fol. 12. Ship—Then *Huddie* proceeds to give an Account that, on 7 *Sept*. 1646, he having received ſtrict Orders to *buy Land* of the *Indians*, on the *Weſtern* Shore, about a Mile North from

Fol. 13. Fort *Naſſaw*, *he did ſo*, and put up the *Company's Arms* thereon, and *took Poſſeſſion thereof*, and ſeveral Freemen made ready to *build* there: But, the *Swediſh* Factor, *Huygen*, came down, from above, took down the Arms, and committed a great Riot and Diſorder there, on the 30th of the ſame *September*, and brought down Governor *Prints's*

Fol. 14. *Proteſt*, declaring it was the Queen of *Sweden's own Ground*, and Lands, and taking Notice that theſe ſecret underhand *new* Purchaſes, by the *Dutch*, ſhewed how little was to be

Fol. 17. relyed on of their pretended *ancient* Right, thentofore talkt of by them. And that Proteſt was dated at *New Gottenburgh*.——The ſaid *Huddie* alſo relates his firing at, and

Fol. 18. endeavouring to ſtop, a *Swediſh* Veſſel, going by Fort *Naſſaw* up the River on the ſecond of *April*, 1648, and gives a Copy of the *Proteſt* which he ſent, upon *that* Occaſion, to

Fol. 19. Governor *Prints*——He alſo reports that, *as* the *Swedes* had carryed many Pine Beams to the *Schuilkill*, ſo he, apprehending they meant to build at the Places where the Veſſels lye and trade, ſent an Account thereof to the *Dutch* Governor, who ſent him Orders that, if the *Swedes* ſhould come to *build*, and *a new Settle* any unſettled Places, he, the ſaid *Huddie*, ſhould, in the Name of the Company, with all Civility, ſettle *next* to him; and having received Accounts that the *Swedes* had anticipated, and already made ſome

Fol. 20. *Buildings* there, he went thither, and, by the Conſent of the *Sachems*, attempted to build, and the *Sachems* bid the *Swedes* go off, for that they the *Swedes* had poſſeſſed *againſt* the *Sachems* Mind, who had given it to *Huddie*; and *Huddie* planted the Prince's Flag, *&c*. in Token of Poſſeſſion, and *erected the Houſe*; but, in the Evening, the *Swediſh* Factor, and ſeven or eight Men, came and enquired into it; The *Indians* ſayd they had ſold it *us*, and that *we* ſhould dwell there, and that the *Swedes* had nothing to do to *build* there, for that they poſſeſſed *enough already*, in *Matinnekonk*, the *Schuilkill*, *Kinſeſſingh*, *Kakaricom*, *Upland*, and other Places, which had been altogether *ſtole* from them; *Minuit*, about 11 Years paſt, having bought no more than a *ſmall Piece* at *Paghahackinge*, to plant ſome Tobacco, whereof the Natives were to have one half for an Acknow-

Fol. 21. ledgment, and that the *Swedes* were now lately *firſt* come into the River; but we, the *Dutch*, had converſed here *above* 30 *Years*; ſo *Huddie* proceeded in the Work, and ſet Palliſadoes about the Houſe; but the (*Swediſh*) Lieutenant of the Fort in the *Schuylkill* come, with 24 Men, with Fire-Arms and Matches, and with Axes deſtroyed the whole Work———That on the 10th of *June* the principal, and true Owners publickly *conveyed the* Schuilkill, and renewed the Sale which was *formerly made* to *Arent Corſe*, (former

Fol. 22. Factor there) of the *Schuilkill*, and the Lands adjoyning, whereof two of the *Dutch* Council took publick and lawful Poſſeſſion———After that, one *Hans Jacobſe* began to ſeat himſelf in the *Schuilkill*, but was obſtructed by the *Swedes*, commanded by Governor *Prints*, who *burnt* what *Jacobſe* was building——So alſo, one *Thomas Broen* went to ſeat himſelf at *Niewhooven*; but, after three Hours, the *Swediſh* Adjutant came and pulled that down——Afterwards, on 8 *September*, News came that the *Swedes* had ſet up a

Fol. 23. Houſe before the Fort *Beevers Reede*, whereby the Approach to *that* Fort is ſhut up——And came in the Night, and pulled down the Paliſados of *that* Fort, and broke through it, whereupon the ſaid *Huddie* ſent a *Proteſt* to the *Swediſh* Governor *Prints*——And thus ends this Report——And this Exhibit is *Dutch* Records, *New York*, N° 2. and begins at Fol. 7.

1649, *Apr*. 15. The Copy of an Original *Indian Deed* of Sale to the *Dutch*, of Lands in the *South* River, whereby *Bycheſke* and *Hyſiackan* declare, in the Preſence of ſeveral *Indian* Witneſſes, being the Chief of thoſe Quarters, and of the Comonalty there, to ſell, in Conſideration of a Parcel of Merchandize received in Hand,

A certain Parcel of Land, in the *South River* of *New Netherland*, on the Eaſt Side of the ſaid River, ſtretching from the Land called *Roophakeſky*, being over againſt the Creek of *Nejeck*, Northerly, up, along the River, to the South Corner of an Iſland called *Pincoe Rockanningh*, which Place is called by the Natives *Mechopinachan*, further *Wyquanaonge*, *Wyſoktchouck*, *Nepatchtea*, *Pepiſcrikas*, are over the Southerly End of the ſaid Iſland, and further beyond the ſaid Iſland, unto *Necheckeiouw*, further up the River, and is called *Paſſanoonoe*, *Andemoerara*, and herein is comprehended the ſaid Iſland *Pincoe Rockaningh*, within theſe Limits and Bounds being, and up in the Country four Miles, or ſo much more or leſs as the Poſſeſſors ſhall think fit.

To hold to *Andries Huddie*, *Alexander Boyer*, *Simon Root*, *Peter Harmans*, and others——This is *Dutch* Records, *New York*, N° 2. Fol. 27.

1654. *Octob*. 17. From the *ſame* Book of Records, a *Proteſt* ſigned by *Hendrick van Deſwick*, Factor of the General Council of Trade, and Southern Company in *Sweden*, directed to the general Director and Council of the *New Netherland*. Complaining that having come into the Fort *Amſterdam*, with the Ship the *Golden Hay*, on the 12th of *September* laſt, and ſent on Shore there for a Pilot, to convey him to the *South River*, his Ship had been ſeiſed and appraiſed, and he himſelf and his Men impriſoned, on pretence that the new *Swediſh* Governour, *Jan Riſing*, had cauſed the Fort *Caſimir* to be taken from them; which was a groundleſs Pretenſion, becauſe the *Dutch* had built that Fort in 1651, on the Queen of *Sweden's* Ground, by *Violence and Force*, and againſt which the late *Swediſh* Governour *Johan Prints* had *then* proteſted; ſo that the new *Swediſh* Governour *Ryſing* has taken *nothing* from the *Dutch*, but only recovered that which belongs to her *Swediſh* Majeſty.———This is *Dutch* Record *New-York* N°. 2. Fol. 29.

Octob. 27. A *Counter-Proteſt*, from *Peter Stuyveſant*, the Director General, and the Council of *New-Netherlands*; offering to reſtore the *Swediſh* Ship, if their Fort *Caſimir* and

Fol. 31. the Ammunition, *&c*. were reſtored; Complaining of the *Swedes* treacherouſly having ſeized that Fort *Caſimir*.——As to Fort *Caſimir* having been built on the Queen

Fol. 33. of *Sweden's* Ground, they declare, that *that* is not, nor cannot be proved; but, on the contrary, the ſaid Director and Council offer to ſhow, and prove, *here in this Country*, and not at the *Hague* or *Stockholm*, by authentick Writings, and living indifferent Witneſſes, Chriſtians and Indians, the States General and *Weſt-India* Company's undoubted Right and Property on the Lands in the *South River*; and that, by Virtue of *Firſt Diſcovery*, *ancient and firſt Poſſeſſion*, ſealed with their Blood, the erecting of *divers Forts* heretofore, *both on the Eaſtern and Weſtern Shore*, *below*, *above*, *and in the Centre of the River*, as alſo by *legal Purchaſe*, and Conveyance of *ſundry* Tracts, acquired of the true Lords of the Soil, even of that Land on which Fort *Cazimir* is built; whereon they do not only and abſolutely ground their undoubted Right to the *whole South River*, but on their *ancient* and *firſt* diſcovery *many Years before any other Chriſtian Nation*, even the *Swedes* themſelves, who, in 1638, *began* to anticipate on this South River, *&c*. Dated at *New Amſterdam* in *New Netherlands*,——This is *Dutch* Records *New York* N°. 2. Fol. 31.

1655. *Aug*. 31. From the *Dutch* Book of Records. A Copy of a *Receipt* whereby ſome Perſon acknowledges to have received, of *Thomas Willeth*, 1500 Guilders in black and white

31. Wampum.——With an *Entry* (under the ſame) ſigned by the Director and Council, that the *General* takes that Wampum with him, *on the Expedition to the South Ri-*

31. *ver*, to make uſe of the Moneys for the Service of the Company, for paying of *Soldiers*, or victualling, or making preſents to the Natives. Wherefore if any Accident happens, *the Company* muſt pay that Money to *Willeth*——Alſo another *Entry* that the General and Mr. *Sille being going to the South River*, whereby the Number of the Council will be reduced, two other Perſons are to be aſſumed and added to the remaining Councillors.——This is *Dutch* Records *New York* N°. 2. Fol. 28.

1655. From another Book of *Dutch* Records, *A Commiſſion*, from the *Dutch* Governour *Peter Stuyveſant*, and the Council at *New Amſterdam* in the *New Netherlands*, appointing *John Paul Jacques*, *Vice Director and Chief of the ſaid South River of* New Netherland, as alſo over the *Fortreſſes*, *Lands*, *and other Places lying on the ſaid River*, and for the Security of the Fort *Caſimir*, and other Places, to keep and eſtabliſh good Orders, and cauſe the ſame to be obſerved *in all matters* relating to the *Trade*, *Policy*, *Juſtice and Militia*, *as alſo over the Soldiers*, *Sailors free Perſons*, *high and ſubaltern Officers*, *&c*. To command all, for the *Weſt-India* Company's Service, to adminiſter *Right and Juſtice*, *as well in Civil as in Military*, &c.———This is *Dutch* Records *New York* N°. 2. Fol. 41.

1656. *Apr*. 12. From the like Book, *A Grant*, from the Director General and Council of the *New Netherlands*, paſt at *New Amſterdam*, granting, unto *Thomas Broen*, a *Plantation* lying in the *South River*, below Fort *Caſimir*.——— *Dutch* Records *New-York* N°. 2. Fol. 38.

Aug. 25. Another like *Grant* unto *Jacob Debinſe*, of two (Town) Lots, near Fort *Caſimir*, being the 18th and 67th Lots.——— *Dutch* Records *New York* N°. 2. Fol. 38.

Sept. 1. Another like *Grant*, unto *Jan Picolet*, of Land, in the *South River*, to the Southward of Fort *Caſimir*, bounded on ſeveral other Perſons Plantations.——*Dutch* Records *New York* N°. 2. Fol. 39.

Sept. 12. Another like *Grant*, to *Philip Janſen Ringo*, of a Lot for a Houſe and Garden, below Fort *Caſimir*, bounded on another Plantation in the *South River*.——— *Dutch* Records *New York* N°. 2. Fol. 39.

Sept. 13. Another like *Grant* to *Conſtantine Groenenburgh*, of a Lot for a Houſe and Garden, in the *South River*, below Fort *Caſimir*, being Lot N°. 20. and bounded by other Perſons Lots.——*Dutch* Records *New York* N°. 2. Fol. 39.

Sept. 13. Another like *Grant* to *Hans Alberts*, of a Lot for a Houſe and Garden in the *South River*, by Fort *Caſimir*, in the *ſecond* Row, bounded by ſeveral other Neighbours.———*Dutch* Records *New York* N°. 2. Fol. 40.

Sept. 22. Another like *Grant* to *Jan Hendrickſe*, of a Lot for a Houſe and Garden in the *South River*, by Fort *Caſimir*, being the 35th Lot in the ſecond Row, bounded on ſeveral Neighbours,———*Dutch* Records *New York* N°. 2. Fol. 40.

Nov. 30. Another like *Grant* to *Andries Huddie*, of a Lot for a Houſe and Garden in the *South* River, nigh Fort *Caſimir*, being the 15th Lot.——*Dutch* Records *New York* N°. 2. Fol. 37.

Nov. 30. Another like *Grant*, to *Alexander Bowyer*, of a Plantation in the *South River*, to the North of Fort *Caſimir*, bounded by one Neighbour.———*Dutch* Records *New York* N°. 2. Fol. 37.

1657. *Apr*. 12. A *Conveyance* from the Director and Council of *New Netherlands*, (in Virtue of Orders received from the *Weſt-India* Company, bearing Date 19 *Dec*. 1656.) unto *Jacob Alricks*, Director and Commiſſary (under the City of *Amſterdam*) over their Colony in the *South River*, the Fortreſs *Caſimir*, *now called* New Amſtel, with *all the Lands* thereunto, according to the *firſt Sale* of the Natives dated 19 *July* 1651, beginning on the Weſt-Side of *Chriſtina Kill*, *to the Mouth of the Bay or River called*

called Boomties Hooke, and as far up into the Country, as the Limits of the *Minquaes*; to hold, to the ſaid *Jacob Alricks*, to the uſe of the Burgomaſters and Gover nours of the City of *Amſterdam*.——*Dutch* Records *New York* N°. 2. Fol. 34.

1658. *Apr.* 20. *Peter Stuyveſant*, the Governour, lays, before the Council at *New Netherlands*, ſeveral Matters for redreſs of the Company's Affairs in the *South River*, that neceſſary Orders might be ſettled there, and the Rights of the *Weſt-India* Company might be taken care of; particularly, in collecting the *Cuſtoms*, for goods inwards and outwards, becauſe there are great Frauds, much Peltry being ſhipped of, without Entry; and ſeveral of the Inhabitants of the Colony of *New Amſtel* petition to ſettle about the Fortreſs *Altena*, within the Diſtrict of the Company, and to begin *Plantations*; alſo, ſome neceſſary Orders are wanting, concerning the *Swedes*. On *all* which Matters the Council adviſe Governor *Stuyveſant* to go thither, *himſelf*, ſpeedily.——*Dutch* Records, *New York* N°. 2. Fol. 35.

Octob. 28. A *Commiſſion*, from the Director General and Council of the *New Netherlands*, appointed *William Beckman*, *Factor and Vice Director* over the *Lands*, *Forts*, *ſtanding Forces and Free People* on the *South River*, to keep and make good Orders, Right and Juſtice amongſt them, in *Civil and Military*, to adminiſter, *&c.*——*Dutch* Records *New York* N°. 2. Fol. 36.

1664. *July* 3. From the Records in *Newcaſtle* County. —— A *Grant* from *Alexander Hynioſſa*, Governor of *New Amſtel*, under the Burgomaſters of the City of *Amſterdam*, unto *Gerret van Sweeringen*, of a Piece of Land, on the South-ſide of the *Fort*, in breadth 1600 Rod, and in length 2000 Rod; on Condition to acknowledge the Burgomaſters of *Amſterdam* and the States General for his Lords and Maſters, and to obey their Governors and Council there, *&c.*— This is proved to be a true Copy from *Newcaſtle* Records, by Meſſrs. *Shaw* and *Lardner*, and is in *Newcaſtle* Records N°. 11. Fol. 3.

It's hoped, that all theſe *antient* Records from one of the King's own Provinces (*New York*,) will moſt abundantly prove that the *Dutch* were poſſeſſed from 1629 to 1664, of *New York*, as their head and chief Settlement, and alſo of the *South* River, (which is now *Delaware* River) as dependant on their great Settlement.

Likewiſe, that the *Swedes*, alſo, had a Poſſeſſion on the *South River* and *Forts* there.

It only remains, (on this Head) to fix the ſeveral Places mentioned.

To which purpoſe, we have an *ancient Map*, which is a *Dutch* Map, and has the *Dutch Arms* upon it, and muſt have been publiſhed whilſt they had Poſſeſſion of the Country, (which Poſſeſſion they are now going to loſe immediately) for it was to no purpoſe to make Maps of any Country after they had loſt it.——This Map has *no Date* to it, nor have Maps *uſually* any Dates to them. — But it's intitled *Novi Belgii, Novæque Angliæ, Necnon partis Virginiæ Tabula, multis in locis emendata a Nicolao Joannis Viſſchero*. And this Map is ſpoke to by Mr. *Greeme*, and is marked *Dut.* and ſhews abundance of Matters to our Advantage, *viz.*

1. It ſhews that Cape *Hinloop*, Fort *Caſimir*, Fort *Chriſtina*, *Mattinnakonk*, and *Schuilkyll*, are all on the *Weſt* ſide of *Delaware* Bay and River (being that Side where the three Lower Countrys now are.)

2. By calling it, ſtill, Fort *Caſimir*, *and not New Amſtel*, it ſhould ſeem to have been publiſhed *before* 1657; for we ſee above, that in *April* 1657, that Place had got its *new* Name of *New Amſtel*, amongſt the *Dutch*.

Note. Fort *Caſimir*, *New Amſtel*, and now *Newcaſtle*, are all of them the *ſucceſſive* Names of the ſelf *ſame* Place.

3. This *Dutch* Map lays down the Line of the 40th Degree (*compleat*) not more than 3 Miles above the *Head of Cheſopeak Bay*. But, *above all other Matters*,

☞ 4. This old *Dutch* Map, acquits the Plaintiffs of one *Impoſition* which the Defendant would fain charge them with, *viz.* of putting Cape *Hinlopen* in his Map too low; he pretending it ought to have been put more *Northerly*, at the Place where Cape *Cornelius* was put; for, *this old* Map (as well as *another*, which we ſhall come to in 1671.) lays down *both* Cape *Hinlopen* and Cape *Cornelius*, ſeparately and diſtinctly, as two ſeveral Capes; and it lays down Cape *Hinlopen* about 19 Miles *more Southerly* than Cape *Cornelius*; and exactly in the ſelf *ſame* manner as my Lord *Baltimore*'s own Map of 1732 placed them. So that, indeed, the Plaintiffs did not (in 1732) *invent* this matter, or impoſe upon Lord *Baltimore* therein, as he has moſt unhandſomly charged them, contrary to his own certain Knowledge; nor did the *Dutch originally*, and in *their* Maps, call the Place Cape *Hinlopen*, which in my Lord's Map is called Cape *Cornelius*, (which is the very Matter put in Iſſue by my Lord's Anſwer) but their Maps were, in this reſpect, moſt exactly like my Lord's own Map.

Chap. III. From the latter End of the Year 1663, when King *Charles* granted *New York*, &c. to the Duke of *York*, and the *Dutch* were conſequently diſpoſſeſſed of their *great* and *ſmall* Settlements, down to the Year 1673; *during all which time* the Duke of *York* poſſeſſed and governed *New York*, and the lower Countys *alſo*.

16 Car. II. 1663. *Mar.* 12. FROM the Chapple of the Rolls, Copy of the *Grant* made to the Duke of *York* by Letters Patent, of all that Part of the Main Land of *New England*, beginning at *St. Croix*, next adjoining to *New Scotland* in *America*, and extending, along the Coaſt, to *Pemaquid*, and ſo, up the River thereof, to the furtheſt Head of the ſame, as it extended Northwards; and extending, from thence, to the River of *Kinebequie*, and ſo, upwards, by the ſhorteſt Courſe, to the River *Canada*, Northwards; and alſo, all that Iſland called *Mattowacks*, or *Long Iſland*, lying towards the Weſt of Cape *Codd* and the *Narrohiganſetts*, abutting upon the Main Land between two Rivers there, ſeverally called *Connecticut*'s and *Hudſon*'s River; and the ſaid River called *Hudſon*'s River; and all the *Land*, from the *Weſt* ſide of *Connecticut* River, to the *Eaſt* ſide of *Delaware* Bay; and alſo all thoſe ſeveral Iſlands called *Martin Vinyards* and *Nantukett*; *Together with all the Lands*, Iſlands, *Soils*, *Rivers*, *Harbours*, Mines, Minerals, Quarries, *Woods*, *Marſhes*, *Waters*, Lakes, Fiſhing, Hawking, Hunting and Fowling, *and all other Royalties*, *Profits*, *Commodities and Hereditaments*, to the ſaid ſeveral Iſlands, Lands and Premiſſes *belonging and appertaining*, *with their and every of their Appurts*; and all the King's Eſtate, Right, Title, Intereſt, Benefit, Advantage, Claim and Demand, of, in or to the ſame, or any part thereof; To hold to the Duke of *York* in Fee, to be held of the King, as of the Manor of *Eaſt Greenwich*, in free and common Soccage, and not by Knights Service; rendering 40 Beaver Skins Yearly; with *Powers of Government*, &c. granted to the Duke of *York*; and *to appoint Governours*, Officers and Miniſters under him: And an expreſs Power (Fol. 4.) to the Duke of *York*, his Governours and Officers, for their Defence and Safety, to *encounter and expulſe*, by Force of Arms, as well by Sea as by Land, *all ſuch Perſons* as, without their Licence, ſhould attempt to *inhabit*, within the ſeveral *Precincts* and *Limits* of his Majeſty's ſaid Territories and Iſlands, *&c.*——This Exhibit is prov'd by *Bulmer*, and is *Rocha* N°. 4.

Note. It's pretended that, as this Grant to the Duke of *York*, when coming from the Eaſtward, extends only to the *Eaſt* ſide of *Delaware* Bay, ſo, that it did not, *by expreſs Words*, include the three lower Counties, which are on the *Weſt* ſide of that Bay;——But, it was a very *large* and *extenſive* Grant, of ſeveral very large Tracts and Territories in *America*, and paſt (as we ſay) all *Lands appertaining* to thoſe extenſive Tracts.——And this is the *ſingle* weak Point in our whole Caſe.

This Grant was made, *in order to drive out the* Dutch, and ſo they immediately *did*.

1664. *Apr.* 2. From the Records, in his Majeſty's Secretary's Office in *New York*, an Exemplification and Inſpeximus under the Great Seal there, of *a Commiſſion* from the Duke of *York*, of this Date, reciting the ſaid Grant to him, and conſtituting and appointing, *Richard Nicholls* Eſq; *his Deputy Governour*, within the Lands, Iſlands and Places aforeſaid, and to follow all ſuch Orders and Inſtructions as he ſhould from time to time receive from the Duke.——This Exhibit is alſo proved to be a true Copy, by two Perſons, *Noxon* and *Vandeſpiegel*, and is in *New York* Records N°. 1. Fol. 3.

Apr. 23. Copy from the Books at the Board of Trade of *Publick Inſtructions* from King *Charles* the 2d. to Colonel *Richard Nichols*, Sir *Robert Carr*, *George Cartwright*, and *Samuel Mavericke* Eſqrs. his Commiſſioners, to viſit the Colony of the *Maſſachuſets Bay* in *New England*; the ſecond of thoſe Inſtructions is (Fol. 5.) to this Effect, *viz.* You ſhall, at large, diſcourſe with them, all that we our ſelf have diſcourſed with you, *of reducing the* Dutch in or near *Long Iſland*, or *any where within the Limits of our own Dominion*, to an entire Obedience to our Government; and to put them out of Capacity of doing the ſame Miſchief as at *Amboyna*; and to reduce them to the *ſame* Rules and Obedience with our own Subjects there; which you are to let them know is *all* we aim at, without any purpoſe of uſing any other Violence, than is neceſſary to *thoſe* Ends; and that no Man ſhall be diſturbed or removed, from what he *poſſeſſes*, who will yield Obedience to us, and live in the ſame Subjection with our *other* Subjects; and you ſhall deſire Concurrence hereto, from the *Maſſachuſets*, and ſuch a Number of Men, and all other things as are neceſſary thereto; and ſhall thereupon proceed, in ſuch manner as you ſhall think fit, either by building of *Forts about them*, or, by uſing ſuch *Force* as cannot be avoided for their *Reduction*, they having no kind of Right to hold what they are in Poſſeſſion of, in our unqueſtionable Territories, than, that they are *poſſeſſed* of it, by an *invaſion* of us.——And, by another Set of *Private Inſtructions*, alſo given to the ſaid Commiſſioners, at the *ſame* time, they were directed by his Majeſty, in his *firſt* private Inſtruction, to acquaint all Men, that *a great End* of their Deſign was, the poſſeſſing *Long Iſland* and *reducing that People* to an entire Submiſſion and Obedience *to the King and his Government*, *now veſted*, by his Grant and Commiſſion, *in the Duke of York*, and by raiſing Forts, or any *other* way, to *ſecure* that *whole* Trade to our Subjects, that the *Dutch* may no longer engroſs or exerciſe it, which they have wrongfully poſſeſſed themſelves of; that *whole* Territory being in our Poſſeſſion, before they, as private Perſons and without any Authority from their Superiours, and againſt the Law of Nations, and the Alliance between us and their Superiours, invaded, and have ſince wrongfully detained the ſame, to the Prejudice of our Crown and Dignity, and therefore ought, in Juſtice, to be reſumed by us, unleſs they entirely ſubmit to *our* Government; and live as *our* Subjects, and, in that Caſe, we will take them into our *Protection*, and they ſhall enjoy all their Poſſeſſions, (*Forts only excepted*) and the *ſame* Freedom in Trade, as our good Subjects.——Theſe Copies are proved by Mr. *Gellibrand*, and are in the Exhibit *Botra* N°. 5.

Apr. 26. Copy, from the Records in *New York*, of King *Charles*'s *Commiſſion* to thoſe 4 Commiſſioners to viſit the ſeveral Colonies in *New England*, and to hear, receive, examine and determine all Complaints and Appeals in all Cauſes and Matters *as well Military*, as Criminal and Civil, and proceed, *in all things*, *for the* providing for, and *ſettling the Security of the ſaid Country*, according to the *Inſtructions* given, or to be given, to them.——This is *New York* Records, N°. 1. Fol. 4.

Now we ſhall find the Commiſſioners got to *America*.

Aug. 15. A *Proclamation*, that his Majeſty having ſent the Commiſſioners, *to expel*, or reduce to *his* Obedience *all Foreigners*, as have ſeated them amongſt any his Majeſty's Dominions in *America*; all ſuch, of what Nation ſoever, as will ſubmit to his Majeſty's Government ſhall enjoy their Poſſeſſions and Privileges as *his* Subjects; which the Commiſſioners publiſh, to clear themſelves from the Charge of thoſe Miſeries that may befall ſuch others, as live there and will not acknowledge the King for their Sovereign.——*New York* Records N°. 1. Fol. 5.

Aug. 19. *Peter Stuyveſant*, Governor and Commander in chief of the Council of the *New Netherlands*, writes *a Letter* from Fort *Anill*, in *New Netherlands* (to the Commiſſioners) ſent by ſeveral Members of the Council and others, to deſire to *know the Meaning* of an *Engliſh* Man of War arriving in the Bay of the *North* River of the *New Netherlands*, about three Days ſince, and *three more* arriving there *ſince?*——*New York* Records N°. 1. Fol. 6.

Aug. 20. Colonel *Richard Nicholls* writes an Anſwer, dated from on Board his Majeſty's Ship the *Guinea*, riding before *Naijck*, telling the *Dutch* Governour, that the King's Right and Title to thoſe Parts is unqueſtionable, and therefore, requires the *Surrender* of all *Forts*, Towns and Places of Strength then poſſeſſed by the *Dutch*, and demands the Town upon the Iſland *Manhatoes*, with all its Forts to be rendered to him; promiſing to ſecure Life and Liberty to thoſe who ſubmit, and thoſe who oppoſe muſt expect the miſeries of *War*. And this he ſends by Mr. *Cartwright*, one of the Commiſſioners, and 3 others.——*New York* Records N°. 1. Fol. 6.

Aug. 22. Governour *Stuyveſant*, by a Note, owns the Receit of the ſaid Demand, and will anſwer it to Morrow.——*New York* Records N°. 1. Fol. 7.

Aug. 23. The *Dutch* Governour *Stuyveſant* writes a long *Anſwer*, dated at Fort *Amſterdam*: Says, he won't at preſent Debate the Rights of the King, amongſt other things, to *Virginia*, *Maryland*, or others in *New England*; but, that he has a Right to *all* the Lands in the North Parts of *America*, is what the Kings of *France* and *Spain* will diſallow. As alſo, he the ſaid Governour *does*, by Virtue of a Commiſſion given to him by the *States General*, to be Governour General over *New Holland*, *&c.* dated 26 *July* 1646, as alſo by Vertue of a Grant and Commiſſion from the States General to the *Weſt-India* Company in the Year 1621, under their *great Seal*, now produced to Colonel *Nicholls*'s Deputies.——Moreover, it's acknowledged by all the World, that, by Vertue of the ſaid Commiſſion and Patent of the States General, the *Dutch* have peaceably, and without controul, enjoyed Fort *Orange* about 48 or 50 Years, the *Manhatans* about 41 or 42 Years, *the South River* 40 *Years*, and the freſh Water River about 36 Years.——As to delivering up of the Places, the King has ſo much Equity, that, if he knew the *Truth*, which is, that the *Dutch* came not into theſe Provinces by any *Violence*, but by *Commiſſion* from the *States General*, firſt of all in the Year 1614, 1615, and 1616, up the North River near Fort *Orange*, and in the Year 1622, there was a Commiſſion and Grant to the *Dutch Weſt-India* Company, and moreover, in 1656 a Grant to the Burgomaſters of *Amſterdam*, of the *South River*, by which Grants they have been held, as alſo in right of their *firſt Diſcovery*, *uninterrupted Poſſeſſion*, *and Purchaſe of the native Princes*, and other Perſons, the King, (on *ſuch* Knowledge) would not grant *any ſuch Order*, to demand their Places; and proteſting againſt this Demand, as an unjuſt Violence and Breach of the Articles of Peace.——*New York* Records N°. 1. Fol. 7.

Aug. 24. Colonel *Nicholls*'s *Warrant* to Captain *Hyde*, the Commander of the *Engliſh* Squadron, to proſecute, by all ways and means, *the ſpeedy reducing* the *Dutch* under his Majeſty's Obedience.——*New York* Records N°. 1. Fol. 10.

Aug. 25. Governour *Stuyveſant*'s *Letter* from the *Manhatoes*, in the Fort of *Amſterdam*, in *New Holland*, to Colonel *Nicholls*, that, following the Orders of the States General, he is obliged to *defend* the Place; but, to prevent ſpilling Blood, ſends Deputies to treat for an *Accommodation*, and deſires, in the mean Time, all *Hoſtilities may ceaſe*.— *New York* Records N°. 1. Fol. 10.

Aug. 25. Colonel *Nicholls writes* that he inſiſts on his *firſt* ſummons for a *ſpeedy Surrender* of the Towns and Forts; and will not treat, ſave upon Articles for a *Surrender*. ——*New York* Records N°. 1. Fol. 11.

Aug. 26. Governour *Stuyveſant* and his Council's *Commiſſion* dated in Fort *Amſterdam* in *New Netherland*, in order to prevent the effuſion of Blood, plunderings, murders, *&c.* appointing Deputies *to treat*.——*New York* Records N°. 1. Fol. 11.

1664. *Aug.* 26. Colonel *Nicholls*, Commander in Chief of his Majeſty's Forces now beleaguering the Town on the *Manhatans*, by his written *Anſwer*, dated at the *Camp* before the *Manhatans*, *accepts* of the Propoſal made by the Governour and Council there, to treat by Articles of *Surrender*, and appoints Deputies on his part, to treat and conclude upon Articles of *Surrender* of the *aforenamed* Place.—*New York* Records N° 1. Fol. 12.

Aug. 27. The *Articles of the Surrender*, whereby the Perſons, Properties, Liberties and Cuſtoms were to be preſerved; and the Soldiers to march out, with their Arms, Drums beating, Colours flying, *&c.* and Copies of the King's Grant to the Duke of *York*, and the Duke of *York*'s Commiſſion to Colonel *Nicholls*, to be delivered to Governor *Stuyveſant* on *Monday* next, ſigned by Colonel *Nicholls*, Deputy Governour to the Duke of *York*; and within two Hours after that, *the Fort and Town called New* Amſterdam, *upon the Iſle of* Manhatoes *ſhall be delivered* into the Hands of Colonel *Nicholls*.—*New York* Records N°. 1. Fol. 12.

Aug. 29. Governour *Stuyveſant*'s *Ratification* of the ſaid Treaty.——*New York* Records N°. 1. Fol. 16.

Thus the *Dutch great* Settlement was reduced, at what is now *New York*.——And, after that was done, the *Engliſh* proceeded next, to the *ſmall* Settlement, *viz.*

Sept. 3. Colonel *Nicholls* and Mr. *Cartwright*, and Mr. *Mavericke*'s *Commiſſion, dated at the Fort in* New York, *upon the Iſle of* Manhatans, reciting, that the *Dutch* have ſeated themſelves at *Delaware Bay*, and drawn a great Trade *thither*; which, if they be permitted to go on, the gaining of *this* Place will be of *ſmall* Advantage to his Majeſty; wherefore having determined to bring *that* Place, and *all Strangers thereabout*, to his Majeſty's Obedience; the Commiſſioners appoint two of his Majeſty's Frigates, and all the *Soldiers* which are not in the Fort, to go *thither*, under the Command of Sir *Robert Carr*, to reduce *the ſame*. And all Officers at Sea and Land are to obey Sir *Robert Carr* during this Expedition.——*New York* Records N°. 1. Fol. 12.

Inſtructions to Sir *Robert Carr* for *reducing* of *Delaware Bay*, and ſettling the People *there* under his Majeſty's Obedience; When you come near the *Fort*, which is poſſeſſed by the *Dutch*, ſend your Boat aſhore, to *ſummon* the Governor and Inhabitants; and let them know they ſhall enjoy their Houſes, Goods and Privileges, only, they muſt *change* their *Maſters*, whether they be the *Weſt India* Company, or the City of *Amſterdam*——To the *Swedes*, remonſtrate their happy Return, under a *Monarchical* Government.——The Cannon and Ammunition, which belongs to the Government, ſhall remain to his Majeſty——The Acts of Parliament ſhall be the *Rule* of future Trading——Liberty of Conſcience to the People——If you can't reduce the Place by *Force*, ſend a Meſſenger to the Governor of *Maryland*, with this Letter to him, and requeſt *his Aſſiſtance*, and of all other *Engliſh*, who live near the *Dutch* Plantations—— "To my Lord *Baltimore*'s Son, You ſhall declare, and to all the *Engliſh* concerned in *Maryland*, "that his Majeſty hath, at *his* great Expence, ſent his Ships and Soldiers to reduce all Foreigners in thoſe Parts to his Majeſty's Obedience; and, to that Purpoſe, only, *You* are "employed; But, the Reduction of the Place being *at his Majeſty's Expence*, you have Commands to *keep Poſſeſſion* thereof, for his Majeſty's own Behoof and Right, and that "you are ready to join, with the Governor of *Maryland*, upon his Majeſty's Intereſt, in all Occaſions; and that, if my Lord *Baltimore* doth pretend Right thereunto, by his "Patent, *(which is a doubtful Caſe)* you are to ſay that you only keep Poſſeſſion, till his Majeſty is informed and ſatisfyed otherwiſe."——This Piece is not dated, nor ſigned by any one, but is in *New York* Records, N° 1. Fol. 15.

Oct. 1. *Articles of Agreement* between Sir *Robert Carr*, on the Behalf of his Majeſty, and the Burgomaſters, on the Behalf of themſelves, and all the *Dutch*, and *Swedes*, inhabiting in *Delaware Bay* and *Delaware River*——The Burghers and Planters to ſubmit to his Majeſty's Authority, without making any Reſiſtance, *to be protected in their Eſtates*, the Magiſtrates to be continued, any *Dutchman* or other may depart, the Magiſtrates and all the Inhabitants to take the Oaths of *Allegiance* to his Majeſty, and of Fidelity to the preſent Government, the People to enjoy Liberty of Conſcience, and whoever takes the Oaths to be, from that Time, *a free Deniſen*——*New York* Records, N° 1. Fol. 16.

Now the *Engliſh* having gained from the *Dutch*, *both* their *great* Settlement at *New York*, and their *ſmall* Settlement at *Delaware* Bay and River, we ſhall have *abundant* Proof, of the *ſmall* Settlement being governed, granted out, ruled and ordered, by the Duke of *York*'s Governors at *New York*, in numberleſs Inſtances, *as a Part and Appurtenance of that great Settlement at* New York.

Oct. 24. The King's Commiſſioners ſign a *Warrant*, dated at *New York*, on *Manhatans* Iſland, appointing Colonel *Nicholls* to repair to *Delaware* Bay, and there to take ſpecial Care *for the good Government of the ſaid Place*, and to depute ſuch *Officers* therein, as he ſhall think fit, for the Management of his Majeſty's Affairs, *Civil and Military*——*New York* Records, N° 1. Fol. 17.

Oct. 26. Governor *Nicholls* ſigned four Papers, at *Fort James* in *New York*, on *Manhatans* Iſland, this Day. By the *firſt* he gave a *Licence* to *Elizabeth Couſturier*, to tranſport herſelf and Goods to *Delaware* Bay, and there to *trade* or traffick with the ſame. By the *ſecond*, he certified that Captain *Hyde*, of his Majeſty's Ship the *Guinea*, had delivered a Flag for his Majeſty's Service in the Fort of *New York*, and another Flag, and Sea Compaſs, to Sir *Robert Carr* at *Delaware* Bay. By the *third*, he certified that Captain *Hyde* having worn a Jack Flag, at his Main Top Maſt Head, in thoſe Parts, was, by the Advice and Allowance of the King's Commiſſioners. And, by the *fourth*, he certified that the ſaid Captain *Hyde* had ſpared two Barrels of Powder, and 20 Iron Shot, *which were ſpent at the reducing of the Fort at* Delaware *aforeſaid under his Majeſty's Obedience*——*New York* Records, N° 1. Fol. 17, 18.

The ſame Day. The ſaid Commiſſioners ſigned an *Order*, dated at *James* Fort in *New York*, on *Manhatans* Iſland, to Captain *Hyde*, Commander of his Majeſty's Ship the *Guinea*, to ſail directly for *Portſmouth*, giving his *Royal Highneſs* Notice of his Arrival.——*New York* Records, N° 1. Fol. 18.

1665. *June* 12. Governor *Nicholls* iſſues out an *Order*, dated at Fort *James* in *New York*, whereby, in Virtue of the King's Grant to the Duke of *York*, he revokes the Form and Ceremony of Government of that his Majeſty's Town of *New York*, under the Name of Scout, Burgomaſters, and Chepens; and, for the future, Adminiſtration of Juſtice, by the Laws eſtabliſhed in theſe the Territories of his Royal Highneſs, by Perſons to be appointed Mayor, Aldermen and Sheriffs, according to the Cuſtom of *England*, in other his Majeſty's Corporations.——*New York* Records, N° 1. Fol. 19.

July 5. Governor *Nicholls*, at Fort *James* in *New York*, grants a *Licence* of Alienation to *Jacob Vis*, to ſell his real Eſtate, conſiſting of a Houſe and Garden, at, or near *Newcaſtle* in *Delaware* Bay, to any Perſon living within *this* Government.——*New York* Records, N° 1. Fol. 20.

Nov. 11. Governor *Nicholls*, by his *Licence*, dated at Fort *James* in *New York*, grants Leave to *Peter Alricks, to trade*, or traffick with the *Indians*, in and about *Hoarekills*, in *Delaware* Bay, for Skins, Peltry, or other Commodities; the ſaid *Alricks making due Entry with the Officers at* Delaware, of the Quantity or Quality of ſuch Commodities as he ſhall trade for.——*New York* Records, N° 1. Fol. 20.

The ſame Day. Governor *Nicholls*, by his *Paſs*, dated at Fort *James* in *New York*, permits the ſaid *Alrick*, with his Servant and ſix Horſes, to paſs from *New York* to *Delaware*, and, *from thence*, into *Maryland*, and ſo to return about his Occaſions.——*New York* Records, N° 1. Fol. 20.

1666. *Mar.* 20. Governor *Nicholls*, by an *Order*, under his Hand and Seal, dated in Fort *James* at *New York*, and directed to the Collector and Receiver General of the Cuſtoms at *New York*, (and it is there ſaid, that *another* was ſent to *Delaware*) takes notice of the Neceſſity of granting ſome temporary Privileges for Encouragement of Trade between the Port of *New York* and *Delaware River*; and that, the *Tenths* of all Sorts of Goods, Liquors, Peltry, *&c.* by *former Practice and Order*, had been collected and paid, in or at the aforeſaid Port *and River*; now, he orders, that (until contrary Order ſhall be publiſhed) no Sort of Goods, Liquors, or Peltry, ſhall be liable to pay *any* Cuſtom, either in this Port, *or in* Delaware *River*, provided that due *Entry and Certificate* be made and given of all ſuch Goods, Liquors, or Peltry, which ſhall be tranſported to or from this Port, *and* Delaware *River*.——*New York* Records, N° 1. Fol. 21.

1667. *July* 21. A Copy which was reprinted by the King's Printer, and by his Majeſty's ſpecial Command, ſo long ago as 1685, of the *Articles of Peace and Alliance* between King *Charles* the Second, and the States General, at *Breda*,—— By the third Article whereof, (Fol. 56.) It was agreed, "That both the Parties, and either of them, ſhall *keep and poſſeſs* "hereafter, with plenary Right of Sovereignty, Propriety, and Poſſeſſion, all ſuch *Lands*, Iſlands, Cities, Forts, *Places and Colonies*, (how many ſoever) as, during this War, "*or in any former Times before this War*, they have, by Force of Arms, or any other way whatſoever, gotten and detained from the other Party; and that, altogether after "the ſame manner as they had gotten, and did poſſeſs them the $\frac{10}{20}$ Day of *May* laſt paſt; none of the ſame Places being exempted."——Printed Book of Treaties, Fol. 55, 56.

Certificate from the King's Prothonotary in Chancery, that he cannot find any Inrollment of that Treaty, or any Original, or other Tranſcript, or Memorial, of it.——Paper Certificate.

Note, It is indeed loſt, and was never inrolled, great Endeavours having been uſed to find it, at *every* publick Office, but in vain, as is proved by *Paris*.

In 1664, the Crown had conquered from the *Dutch both* their Settlements, and had, ſince, poſſeſſed the ſame; but now the *Dutch*, as we ſee, added a *Ceſſion* of the ſame. After which, we ſhall find the Inſtances, of what we are proving, much *ſtronger*, and *more frequent*, than before.

Jan. 8. From the Records in *New York*. Governor *Nicholls*'s *Grant of Confirmation* unto *Johan Hendricks*, *Niels Nielſon* Sen. *Hendrick Nielſon*, *Mattys Nielſon*, and *Niels Nielſon* Jun. their Heirs and Aſſigns for ever, for a Plantation, to each of them, at *Newcaſtle*, *viz.* ſcituate on the *Verdrietige Hook*, or Corner of Land, ſo extending to the *Stone Hook*, which had been before granted to them the fifth of *March*, 1663. and the 15th of *June*, 1664. Five Buſhels of Wheat Acknowledgment.——*New York* Records, N° 3. Fol. 3.

The ſame Day. From the Records in *New York*. Governor *Nicholls*'s *Grant of Confirmation* unto Captain *John Carr*, of a Piece of Land with a Plantation thereon, containing 50 Acres, and another contiguous Piece of Land and Bowery thereon, containing 100 Acres, both ſcituated at *Newcaſtle* upon *Delaware*, upon the *firſt* Hook or Corner of Land, above the Fort, on the North Eaſt Side thereof, and mentioned to be bounded by *three other* Perſons Lands, which Lands, *&c.* had been purchaſed from the Owners by *Anthony Bryant*, and by him ſince ſold for a valuable Conſideration to the ſaid Captain *John Carr*; and, for a Confirmation to him of his Poſſeſſion and Enjoyment, this Patent is granted. Two Buſhels of Wheat Acknowledgment——*New York* Records, N° 3. Fol. 3.

1668. *Mar.* 25. Now *Francis Lovelace* Eſq; appears to be Governor: but his *Commiſſion* does *not* appear. From the Records in *New York*. *Francis Lovelace*'s *Grant of Confirmation* to *Hans Block*, for a Piece of Land at *Delaware*, upon the *ſecond* Hook, or Neck, above the Town of *Newcaſtle*, and ſome Meadow Land, containing together 120 Acres, bounded by four Neighbours Lands. The Quit Rent two Buſhels.——*New York* Records, N° 3. Fol. 4.

April 21. From the Records in *New York*, *Regulations and Directions* for the *Settlement* of the *Government* in *Delaware*, dated at Fort *James* in *New York*. It is neceſſary to hold up the *Name* and Countenance of a *Garriſon* in *Delaware*, with 20 Men, and a Commiſſion Officer. That the Soldiers be lodged in the *Fort*, and keep the *Stockadoes* up in Defence. That the *Civil Government* be *continued*, till further Order. If any Complaints ſhall be made of the *Civil Magiſtrates*, the *Commiſſion Officer*, Captain *Carr*, is to call to him five Perſons, therein named, *as a Councill*, to determine the ſame. They alſo are to adviſe him, in all Difficulties with the *Indians*, and for the *arming* the ſeveral *Plantations* and Planters, *who muſt obey their Orders*. Two Thirds of the *Soldiers* to remain, conſtantly, in and about *Newcaſtle*. *Fines* for light *Offences* to be moderate. The Commiſſion Officer, Captain *Carr*, in the Determination of the chief *Civil Affairs*, whereunto the fore mentioned Counſellors are ordained, to have *Caſting Voice*. *The new appointed Counſellors to take the Oath to his Royal Highneſs*. The *Laws* of the Government, *eſtabliſhed by his Royal Highneſs*, to be frequently communicated to the Counſellors and others. No offenſive War to be made, againſt any *Indians*, before you receive Directions from *the Governor* for ſo doing. In *all* Matters of Difficulty and Importance, *You muſt have Recourſe, by way of Appeal, to the Governor and Councill at* New York.——*New York* Records, N° 1. Fol. 22.

June 8. From the Records at *New York*, *A Letter*, writ from Governor *Nicholls* and Colonel *Lovelace* jointly, and dated at Fort *James*, directed to Captain *Carr*. Since our *laſt*, relating to the *Indians*, who murdered the Servants of Mr. *Tom* and *Peter Alricks*, one *Rambo* informs us that the *Indians*, in thoſe Parts, deſire there ſhould be an abſolute *Prohibition*, upon the *whole* River, of ſelling *ſtrong Liquors* to the *Indians*: Therefore, you are to convene thoſe Perſons, who are joined with you in Commiſſion, for the Management of the *Civil* Affairs; and, with *their* Advice, give *all* neceſſary Orders for the *good Government* of Chriſtians and *Indians*, *and*, *what you conclude*, *muſt be remitted hither*, and ſhall be *confirmed*, as if we had been preſent.——*New York* Records, N° 1. Fol. 23.

July 7. From the Records at *New York*, dated at Fort *James* in *New York*, on *Manhatans* Iſland, *A Certificate*, that, at the taking of the *Fort and Town* at *Delaware*, from the *Dutch*, and reducing of thoſe Parts under his Majeſty's Obedience, *all the Goods and Servants*, taken or ſeized upon in the ſaid Fort or Town, belonging to the City of *Amſterdam*, or their Officers, *were confiſcated*, *and made free Plunder*, and ſo diſpoſed of *accordingly*; and there being ſeveral Negroes taken away from *Peter Alricks*, who fell into the Hands of Enſign *Arthur Stock*, he, afterwards, freely reſtored, and beſtowed 11 Negroes upon the ſaid *Alricks*, as a Gift, which was allowed, and approved of by *me the Certifier*.——*New York* Records, N° 1. Fol. 23.

Aug. 27. From the Records at *New York*, *A Certificate*, dated at Fort *James* in *New York*, that Mr. *William Tom* came over, with the Certifyer, in his Majeſty's Service, and had, ever ſince, been in Office, *and for two Years laſt paſt Commiſſary at* Delaware, and having behaved well, and deſired his Diſcharge, it is hereby granted to him.——*New York* Records, N° 1. Fol. 24.

Nov. 17. From the Records at *New York*. *An Order*, under Hand and Seal, dated at Fort *James* in *New York*, directed to Captain *John Carr*, at *Newcaſtle* upon *Delaware*. Reciting, that Sir *Robert Carr* had received a Mare, at *Delaware*, which he promiſed to pay *Samuel Edſal* for here; but not having paid the ſame, as was alſo repreſented to the *late Governor*, Colonel *Nicholls*; therefore, authoriſing Captain *Carr*, with the *Magiſtrates* in Commiſſion at *Delaware*, to make Enquiry of the Value of the ſaid Mare, and to cauſe the ſame to be paid to *Edſal*, out of the Eſtate in thoſe Parts belonging to the ſaid *Robert Carr*. And for ſo doing this ſhall be a ſufficient Warrant.——*New York* Records, N° 1. Fol. 24.

Dec. 15. From the Records at *New York*, *An Order*, dated in Fort *James* there, reciting, that an Agreement had been made, with *Peter Alricks*, about *Mattinicom*, *alias Carr*'s Iſland, in *Delaware* River, and all the Stock, Goods, and other Materials thereon, heretofore in your Care and Cuſtody; Therefore, requiring immediately to make a *Surrender* of the ſaid Iſland, and Stock, and Goods, to *Alricks*, or his Aſſigns, and return me a true Inventory, and Account of all the Stock and Goods, which was delivered you there by Sir *Robert Carr*.——*New York* Records, N° 1. Fol. 24.

Mar. 23. From the Records at *New York*, a Confirmatory *Licence of Alienation*, there dated, (by Governor *Lovelace*) to confirm a Licence, granted by the late Governor, Colonel *Richard Nicholls*, his Predeceſſor, unto *William Beckman*, to ſell a Houſe, and Lot of Ground at *Delaware*.——*New York* Records, N° 3. Fol. 5.

Mar. 24. From the Records at *New York*, *a Confirmatory Grant*, made by Governor *Lovelace*, unto *Jurien Jans*, for a Piece of Land at *Delaware*, upon ——— Hook, or Neck, above the Town of *Newcaſtle*, bounded by *one* Neighbour, and containing 46 Acres. The Quit Rent, one Buſhel of *Winter* Wheat.——*New York* Records, N° 3. Fol. 5.

From

1669. *Mar.* 25. From the Records at *New York*, Governor *Lovelace*'s *Confirmatory Grant*, to *Jacob Vander Weer*, of a ſmall *Iſland*, at *Delaware*, lying beyond *Chriſteen Kill*, bounded upon the Main by two other Neighbours.—Quit Rent, two Buſhels of Wheat,—*New-York* Records, N° 3. Fol. 5.

Same Day. Governor *Lovelace*'s like *Confirmatory Grant*, to *Gerrit Sanderſen*, of two Pieces of Land at *Delaware*, bounded by four Neighbours, named.——*New-York* Records, N° 3. Fol. 5.

Mar. 26. *Three* more *Confirmatory Grants*, from Governor *Lovelace*.—1. To *John Sibrantſe*, of a Piece of Land, at *Delaware*, near the *Horſe Neck*, called *the Paerd Hook*, bounded on *one* Neighbour. Quit Rent, one Buſhel.—2. To *Evert Gertſon*, of a Piece of Land, at *Delaware*, *viz.* in *Newcaſtle*, between *Otter Street*, *and Calves Street*, bounded on each Side by *one* Neighbour. Quit Rent, one Buſhel.——3. To *Paul Jaques*, of 200 Acres of unmanured Land, *along Chriſteen Kill*, bounded by *two* Neighbours. Quit Rent, two Buſhels.—*New-York* Records, N° 3. Fol. 6.

April 8. *Two* more *Confirmatory Grants*, from Governor *Lovelace*.—1. To *Harman Reyners*, of a Lot of Ground, at *Newcaſtle* in *Delaware*, with a Houſe and Garden thereon, bounded by *one* Neighbour. Quit Rent, one Buſhel.—2. To *Neils Lawes*, of a Piece of Land, at *Delaware*, near *Upland*, containing 150 Acres, bounded by *one* Neighbour. Quit Rent, one Buſhel and half.—*New-York* Records, N° 3. Fol. 7.

May 28. Governor *Lovelace*'s *Confirmatory Grant*, to *Olla Towſon*, of a Parcel of Land at *Delaware*, bounded by *two* Neighbours. Quit Rent, one Buſhel.—*New-York* Records, N° 3. Fol. 7.

Same Day. *Two* more *Confirmatory Grants*, from Governor *Lovelace*.—1. To *Bernard Eken*, of a Houſe and Garden, in the *Town* of *Newcaſtle*, bounded Weſt with the *Church Yard*, and North with the *Mart*. Quit Rent, one Buſhel.—2. To *Bernard Eken*, of a *Plantation*, at *Delaware*, near *Horſe Neck*, *or Paerd Hook*, and called *Laymakers Hook*. Quit Rent, one Buſhel.—*New-York* Records, N° 1. Fol. 25.

July 1. Another *Confirmatory Grant*, from Governor *Lovelace*, to *Simon Janſen* and *Mattys Berkelſe*, for a Parcel of Land, at *Delaware*, upon the *Crane Hook*, bounded by *one* Neighbour. *New-York* Records, N° 1. Fol. 25.

July 1. *A General Order*, dated at Fort *James* in *New-York*, Reciting, that there was an Order, made at the General Court of Aſſizes in 1666, that *all* Perſons, who had *old* Patents, ſhould bring them to be *renewed*, and thoſe who had *none* ſhould be ſupplied therewith by a certain Time; which Order extended itſelf to *Albany*, *Eſopus*, and *all other* Places of the Government, as well as this City; and, *more particularly*, to *all thoſe*, who had been under the *Dutch*, and are now reduced to his Majeſty's Obedience; theſe Preſents declare, that the Inhabitants in and about *Delaware*, being under *this Government*, are *likewiſe* concerned, *as well as the reſt*, ſo that all Perſons *there*, who hold their Lands by Patents, or Ground Briefs, of the *Dutch* Tenures, are to have their Patents *renewed*, and thoſe who have *none*, are, with all Speed, to be ſupplyed therewith, otherwiſe they are liable to incur the Penalty of the Law.—*New-York* Records, N° 1. Fol. 25.

July 29. *Two Confirmatory Grants*, from Governor *Lovelace*——1. To *William Tom*, of a Piece of Land, below the Town (of *Newcaſtle*) heretofore belonging to *Peter Alrick*, and another Piece of Land and Meadow. Quit Rent, two Buſhels.—— 2. To *William Tom*, of a Houſe and Lot, at *Newcaſtle*. Quit Rent, one Buſhel.——*New-York* Records, N° 1. Fol. 26.

Aug. 2. *An Order*, dated at *New York*, permitting *William Tom* to take up, kill, or mark *wild Hogs*, in the Woods, *at Delaware*, near his Lands.—*New-York* Records, N° 1. Fol. 26.

Same Day. *Another Order*, dated at Fort *James* in *New York*, directed to the *Officers* at *Delaware*, reciting, that there is a *Swede*, at *Delaware*, pretending to be Son to *Coniſmark*, one of the King of *Sweden*'s Generals, who raiſes Sedition, and diſturbs the Peace and Laws of the Government; and *Henry Coleman*, one of the *Fins*, *(Finlanders)* leaves his Habitation, Cattle, and Corn, and runs after the *other* Perſon; and they converſe with the *Indians*; and Miſchief being apprehended from them, you have, *already*, according to your Duty, ſet forth your Warrant to apprehend him, but he can't be met withal. I therefore *impower* you to ſet forth a Proclamation, in *my* Name, that if *Coleman* does not ſurrender himſelf in 15 Days, *you* cauſe all his *Eſtate*, within *this Government*, to be ſeiſed upon, and ſecured to his Majeſty's Uſe; of which you are to render *me* an Account, by the firſt Opportunity. ——*New-York* Records, N° 1. Fol. 27.

Same Day. *The Governor's Order*, dated at *New-York*, upon *William Tom*'s Requeſt, that the *Finnes*, or others, reſiding at, or about *Delaware*, may have *an Enlargement* of their Bounds; they deſiring to take up ſome Lands at *Apoquimini*, *within the Government*, as an Encouragement to them, the Governor grants their Requeſt, on Condition a Draught of the Land be taken, and returned *to him*, whereupon, thoſe who ſettle there ſhall have *Patents*.——*New-York* Records, N° 1. Fol. 27.

Same Day. *The Governor's other Order*, dated at *New-York*, upon *William Tom*'s Requeſt, that ſome Familys from *Maryland* may have liberty to come and ſettle, upon the Kill, *below Apoquimini*, *within the Government*; to the end the ſaid Place may be inhabited and manured, it tending likewiſe to increaſe the Inhabitants *within theſe Territories*, I grant the ſaid Requeſt, on condition a Draught be taken of the Land in the ſaid Kill, and a Return thereof made *to me*, whereupon thoſe who ſettle *there* ſhall have *Patents* for their further Aſſurance.——*New-York* Records, N° 1. Fol. 27.

Same Day. *The Governor's Order*, dated at *New-York*, impowering *William Tom*, *to collect the Quit-Rent*, upon all Perſons relating to *Delaware*, or *Delaware* River, who have taken out Patents and hold their Lands under his Majeſty's Obedience, and alſo, to *collect from* thoſe who have *no Patents*, and hold Lands there, at leaſt *proportionable with the reſt*. For the taking out of whoſe Patents there is Notice by *another* Order.——*New-York* Records, N° 1. Fol. 28.

Aug. 3 and 6. *Two ſeveral Orders*, from the Governor, directed to Captain *Carr*, and the reſt of the *Court* at *Newcaſtle*, one *Outhouſe*'s Goods having been attacht, at the Suit of *Teller*, in the City of *New-York*, but permitted to be tranſported to *Delaware*, on condition to be depoſited, till the Debt was paid; but the Court having, contrary to the Governor's Orders, releaſed the Goods, and given longer time for Payment, the Governour requires *the Court* to ſecure all Charges and Intereſt out of the Debtor's Eſtate, which, if they cannot do, the Court *themſelves* are to make good.—*New-York* Records, N° 1. Fol. 29.

Sept. 1. *A Grant* from Governor *Lovelace*, unto *Charles Floyd* and *John Henry*, two Soldiers who went over in his Majeſty's Service, of 20 Acres of Land, behind the Town of *Newcaſtle*, which had belonged to one *Webber* under the *Dutch* Government, and had been *ſeized* upon and confiſcated by Order of the late Governor. Quit-Rent 1 Buſhel.——*New-York* Records, N° 1. Fol. 30.

Sept. 14. From the Records of *New-York*, *Minutes* of the Governor and Council, on Receipt of Letters from Captain *Carr*, that an *Inſurrection* was very much feared there, the chief Actor being in hold, and the Depoſitions of ſeveral Perſons taken; *Ordered* a Letter of Thanks to the Officers *there*, for their great Care, and that the *long Finne*, in hold and in Irons, be ſtill kept in ſafe Cuſtody, *till the Governor*, or ſome other commiſſioned *from him*, ſhall *go over to examine into and try the Matter of Fact*, which is of ſo *heinous* and high a Nature; and that all Perſons who have had a hand in the Plot, be bound over, and enjoyned to give Security to anſwer their Miſdemeanour, and an Account to be taken of their Eſtates, in the mean time.——*New-York* Records, N° 1. Fol. 30.

Sept. 15. Being the next Day, the Governour writes *a Letter*, from Fort *James* in *New-York*, to Captain *Carr* and the Scout and Commiſſaries at *Delaware*, thanks 'em for their good Service herein to his *Royal Highneſs*, in ſecuring thoſe Men, and promiſes to repreſent that Matter to the *Duke*. Orders him to keep the *long Swede* in Irons, till he can have his Trial, which ſhall be as ſpeedy as the Governor's Affairs can permit, either by the Governour's own Preſence, or by ſome of the Council ſufficiently authoriſed to hear and *determine* that Affair. I think it would not be amiſs if, to the *ſimpler* Sort of thoſe concerned, you injoin them to *labour* ſometimes in the Reparation of the *Works* about the Fort.——*New-York* Records, N° 1. Fol. 31.

Oct. 18. *Minutes* of the Governor and Council of *New-York*, on conſideration of the *long Finnes* Inſurrection *at Delaware*, it is *adjudged*, that he *deſerves to die* for the ſame; yet, in regard many others were concerned *with him*, and, amongſt them, ſome *ſimple* People, who might be involved in the ſame, if the Rigor ſhould be extended, it's thought fit *and ordered*, that the ſaid *long Finne* ſhall be publickly and ſeverely *whipt*, and branded in the Face with *R*, for attempting Rebellion: After which, that he be *ſecured*, till he can be ſent and *ſold to the Barbados*; That the Chief of his Accomplices do *forfeit* to the King *half* their Goods and Chattels, and a ſmaller *Fine* be ſet on the reſt; which ſhall be left to the Diſcretion of the Commiſſioners who ſhall be appointed to make Enquiry into the ſame. As to the *Indian*, who committed a *Rape* on a Woman *there*, that he be put to *Death*, according to the Sentence paſt on him there.——*New-York* Records, N° 1. Fol. 32.

Next Day. Governor *Lovelace*'s *Letter* to Captain *Carr*. Approves of the Sentence of Death which the ſaid Captain *Carr* and the Commiſſioners had condemned the Indian to; and, he being *eſcaped*, orders them to ſend to the Sachem, that he may be delivered up, and Juſtice executed on him. As to the *long Finne*, keep him a little longer, till I ſend ſome Commiſſioners *from hence* to examine into the whole Matter; but I would not have the ordinary People be too much frighted, *I have thought fit* to excuſe them, by a pecuniary *Mulct*, as they ſhall appear more or leſs guilty.——*New-York* Records, N° 1. Fol. 32.

Nov. 22. The Form of a *Commiſſion*, from the Governor of *New-York*, to ſeveral Perſons (for whoſe Names there is a Blank) whereof *Matthias Niccols* to be Preſident, to put in Execution the *Regulations*, and Act of Council made relating to the *long Finne*; Alſo to call any *other* Perſons that were in hold, before them, and pronounce Sentence againſt them, according to the Directions therewith given to the Commiſſioners; and to examine all others, ſuſpected to be guilty, and impoſe *Fines* according to their Demerits.—— *New-York* Records, N° 1. Fol. 33.

Jan. 25. *Minutes* of the Governor and Council. The Sentence againſt the *long Finne* being taken into Conſideration, *order'd*, that two Warrants be prepared, the one to Mr. *Couſſeau* to receive, the other to Captain *Manning* the Sheriff, to deliver the ſaid *Finne*, according to the Sentence.——— Alſo the Matter about *William Douglas* taken into Conſideration. The Letter from the *Whorekill* read, Ordered that, according to *their* Deſire, and an Order of the ſpecial Court held at *Newcaſtle*, there be *an Officer* appointed *amongſt them*, to keep the *Peace*, &c. and a *Commiſſion* ſent to that purpoſe; And, as *Douglas* has behaved ſo ill, *at the Whorekill*, he ſhall be continued in Priſon till further Order, but his Irons to be taken off; but if he can give Security not to return to the *Whorekill*, &c. he may be diſcharged.——*New-York* Records, N° 1. Fol. 33.

Jan. 26. 28. An *Entry* that the *long Finne* was, that Day, put on Board Mr. *Coſſeau*'s Ship, to be tranſported and ſold at *Barbados*, according to the Sentence of the Court at *Delaware*; *And a Warrant* (to the Captain of the Ship) dated at *Fort-James* in *New-York*, to carry him to *Barbados*, and ſell him there, as Servants were ſold, and to return the Produce to that Port of *New-York*.——*New-York* Records, N° 1. Fol. 34.

Feb. 25. 26. *An Entry* that *William Douglas* was, that Day, releaſed from the Priſon in the State-houſe, where he had been committed for a Miſdemeanor at the *Hoarkill*, and was ſent into the North, having given Bond not to return into *this* Government; ——And the Governor's Letter (to the Magiſtrates) approving of their having ſent him Priſoner to *Delaware*, from whence he had been remitted to *New-York*, approving what they had done, and acquainting how he was *now* ſent away. And, to prevent future Diſturbances, the Governor ſends a *Commiſſion*, impowering ſome of them to ſuppreſs them.——*New-York* Records N° 1. Fol. 34.

Feb. 28. A ſhort *Entry* (which is ſworn to be a true Copy of the Record) that, this Day, there was *a Commiſſion*, under the Governour's Hand and Seal, ſent to the *Hoarekill*, for certain Perſons, there named, to be *Scout* and *Commiſſaries*, to keep *good Orders* there for his *Royal Highneſs*, to try all Matters of Difference under 10*l.* *amongſt themſelves*; for what ſhall be *above*, they are to apply themſelves to *New-York*: and ſo, for *all Criminals*.——*New-York* Records N° 1. Fol. 35.

Mar. 15. *An Order* of the Governor, *renews* the former *Cuſtom and Duty* of 10 *per Cent.* on all European Goods imported at the *Hoarekill*, and 10 *per Cent.* on all Furrs and Peltry exported from *thence*; and appoints *Martin Crieger* to be Receiver and *Collector* of the Cuſtoms at the *Hoarekill*, to receive thoſe Duties, according to *former* Cuſtom and Uſage; and all Perſons are to obey this Commiſſion under Penalty of *Confiſcation of their Goods*. And the ſaid *Crieger* is to render *the Governor* a due and exact Account of the ſaid *Duties*.——*New-York* Records N° 1. Fol. 35.

1670, *April* 13. The Governor's *Letter* from *New-York*, to Captain *Carr*, that he has given *Jacobus Fabritius* and his Wife, his *Paſs*, to go to *Newcaſtle*, or any Place in *Delaware* River. ——And recommends to him a Suit that *Fabritius*'s Wife has there, the Governour thinking it juſt that an old Execution, in that Suit, ſhould be of Force, or renewed.—— *New-York* Records, N° 1. Fol. 35.

May 16. The *Governor's Order* made at *New-York*, on the Petition of *Niels Nielſon*, and the others, concerned in the Patent granted by Colonel *Nicolls*, for each of them to have a Plantation, on *Verdrietiges*, *or Trinity-Hook*, at *Delaware*; they complain that *William Tom*, having, by Miſrepreſentation, obtained a *Patent* for the ſaid Land, has, by Order of the Court at *Delaware*, forbid them to cut Hay, or feed the Marſh; which, *without Relief*, will be much to their Prejudice. Now, the Governour orders, that the ſaid Petitioners ſhall enjoy what is granted in *their* Patent, any Patent, Grant, or Order of Court, in favour of *William Tom*, to the contrary notwithſtanding.——*New-York* Records, N° 1. Fol. 36.

Aug. 24. The Governor's *Letter*, dated from Fort *James*, directed to Captain *Carr*, on account of a *new* Murder committed by the *Indians*, blaming the Magiſtrates at *Newcaſtle* for their too much Remiſſneſs, in not avenging the *laſt* Murder; *ordering* a narrow Enquiry into this late Action; to ſtrengthen themſelves in their *Gariſon*; recruit their Men; *muſter the Burghers*; diſpoſe them to their Watches; ſummon the Commiſſioners; with them conſult the beſt way to diſcover the Aſſaſſins; demand them, or force the *Indians* to deliver them up, that they may be brought to Puniſhment; and on all occaſions, to give the Governour Adviſements of their Proceedings, that *He* may apply a timely Aſſiſtance, if need require.——*New-York* Records, N° 1. Fol. 36.

Oct. 22. *Minutes* of the Governor and Council, that the Cuſtoms at the *Whorekill* ſhould be aboliſhed.——*New-York* Records, N° 1. Fol. 37.

Same Day. The Governor's *Abolition*, under the Seal of *New-York*, done with the Advice of his Council, *of the Cuſtoms* lately laid at the *Whorekills*, and this, on the Requeſt of the *Inhabitants there*, provided they don't ſell too great Quantities of Liquors to the *Indians*, nor prejudice their Neighbours of *Newcaſtle*, *upon which Place* they are to have *their Dependance*.——*New-York* Records, N° 1. Fol. 37.

Same Day. A *Licence* granted to *Peter Gronendike*, to trade with the *Indians* at the *Whorekill*.——*New-York* Records, N° 1. Fol. 37.

Nov. 7. The Governor's *Licence* to *Peter Alricks*, to take up a Pair of Mill-ſtones at the *Whorekill*, belonging to no Perſon there.——*New-York* Records, N° 1. Fol. 37.

16. The Governor's *Letter* from *New-York* to Captain *Carr*, now, it's Winter, and *ſafe* againſt the *Indians* Attempts, to *diſband ſome* of his Men, contract his Expence, and take them on again in the *Spring*, and to let the Governour know if ſhall want *any Force* from *New-York*.—*New-York* Records, N° 1. Fol. 38.

The

1670. *Jan.* 9. The ſaid Governor Colonel *Lovelace's Commiſſion*, dated at *New-York*, appointing *James Mills Surveyor of Land* at the *Whorekill* and *Parts adjacent*, he behaving *according to the Cuſtom* and Practice of Surveyors in theſe his *Royal Highneſs's* Territorys.——*New-York* Records, N° 1. Fol. 38.

Jan. 12. The Governor's *Li ence*, dated at *New-York*, to *William Mills*, to purchaſe a Piece of Land for a Plantation, to the *Southward* of the *Town* at the *Whorekill*, but the Extent and Quality thereof is to be certifyed to *me*, whereupon he ſhall have further Aſſurance by *Patent*.——*New-York* Records, N° 1. Fol. 38.

Feb. 24. *Minutes* of the Governor and Council at *Fort James*, on the Reſult of the Affair with the *Indians*, which Affair is reſpited till Capt. *Carr*'s Arrival; and a *Letter*, to that
29. effect, writ by Governor *Lovelace* to the Inhabitants of *Delaware*.——*New-York* Records, N° 1. Fol. 39.

Mar. 17. *Inſtructions* given, by Governor *Lovelace*, to Capt. *Crieger*, who was bound to the *Whorekills*, viz. To bring the Governor an Account of the *Encreaſe* or *Decreaſe* of the Inhabitants *there*, whether any *new* Families are reſolved to ſettle here under the Protection of his *Royal Highneſs*, and to give the Governor an Account *what the Civil Officers are*, whether the *Scout* is to be altered *this Year*, the Perſon to ſucceed him is to be recommended to the *Governor*, who will authorize him for two Years, to enquire about the *Indians* who murder'd *John de Caper*'s People, and let the Governor know under *whoſe* Juriſdiction they live, to bring the Milſtones with him, to *remove the Cuſtoms*, and to *reſtore* them to their *ancient Liberty*.——*New-York* Record, N° 1. Fol. 39.

1671. *Apr.* 15. *Minutes* of the Governour and Council of *New-York*, *Delaware* Buſineſs taken into Conſideration (Capt. *Carr* being preſent) about the Murder committed by the *Indians*, about ſelling ſtrong Drink to the *Indians*. About the Murderers, they are known, but, for the preſent, not thought convenient to proſecute to the utmoſt. Capt. *Carr* relates of the *Deſire* of many Familys to come and ſettle below *Newcaſtle*, at *Apoquimini* and *Bombey*'s *Hook*, to be conſidered of; a *Letter* is ordered to be written to treat with ſome of them about their Settlement.——*New-York* Records, N° 1. Fol. 39.

Apr. 25. *A ſpecial Writ*, dated at *Fort James* in *New-York*, in an Action of Debt, brought by *Peter Jego* againſt *Cornelius Joris* now reſiding at *Newcaſtle* in *Delaware*, commanding the ſaid *Joris* to appear at the General Court of Aſſize to be held in the City of *New-York* the 6th of *October* next, to anſwer the Complaint of the ſaid Plaintiff *in an Action of Debt*. This Writ is directed to any of the Officers at *Delaware*, or in *Delaware River*, who are to ſee this *ſpecial Warrant* ſerved, and to make *Return* thereof to the Court above-mentioned, and alſo to cauſe any Attachment, laid upon the Goods of the Plaintiff by the Defendant, to be rebact, until the Trial at the Aſſizes.——*New-York* Records, N° 1. Fol. 40.

May 1. From the Records in *Newcaſtle* County, Governor *Lovelace*'s *Grant*, at full Length, which he makes, as Governor-General under the *Duke of York*, unto *Herman Rayners* in Fee, of a Lott of Land at *Newcaſtle* in *Delaware River*, bounded by the *Mart*, and by *Beaver-Street*, and by *two* Tenants.——*Newcaſtle* Records, N° 11. Fol. 4.

May 18. From the *New-York* Records, *Minutes* of the Governor and Council.——Capt. *Crieger*'s Buſineſs about the *Whorekill*. The Purchaſe of the *Whorekill*, by the *Dutch*, to be recorded. An Examination made at the *Whorekill* by Capt. *Crieger*, and the Anſwer upon it, together with three Papers brought by Capt. *Carr* concerning it. The other Matters from the *Whorekill* well approved of.——*New-York* Records, N° 1. Fol. 40.

June 14. *Minutes* of the Governor and Council at *New-York*. The Buſineſs under Conſideration are the Matters at *Newcaſtle* and the *Whorekill*. About *Newcaſtle* it was ordered that no Perſon in *Delaware* be permitted to *diſtill* there, but ſuch as give in their Names to the Officers at *Newcaſtle*, and from them to receive *Licences*, and that they pay one Guilder *per* Cann for all they ſhall diſtill, which ſhall go towards the Reparation of the New Block-houſe and Fort. About the *Whorekill* it is ordered, that what is paſt, and granted *there*, ſhall be *confirmed*, upon the ſame Conditions as the *reſt* of the Land; with this *Proviſo*, that each Planter be obliged to *ſettle* upon the Land, and that each Perſon be injoyned to ſettle a Houſe *in a Town* to be appointed near them.——*New-York* Records, N° 1. Fol. 40.

(*June* 14.) The next Paper is ſome *written Propoſals*, tendred to the Conſideration of the Governor and Council, touching the Town of *Newcaſtle* and Plantations in *Delaware River*, now under his *Royal Higneſs*'s Protection and Government. (Note, this is *the Paper* which the Governour and Council had, that *Day*, under their Conſideration.) The Town of *Newcaſtle*, being the *Strength* of the River, it's left to Conſideration whether *they* ſhould not have more than *ordinary* Encouragement.—1. That a *Blockhouſe* may be erected, and a *conſtant Wat h* may be kept, now the *Fort* is fallen to ruin. 2. That no *Veſſel* from this, or any other Place to trade, be permitted to go up the River *above the Town*, for it will ruin the Place, all Trade deſerting them. 4. That the *diſtilling* of ſtrong Liquors, which conſumes Grain and debauches the Inhabitants, be *prohibited*. 5. That the Number of *Victuallers* be reſtrained, to ſuch as the Officers ſhall approve of, and may be *licenſed*. 6. That *Conſtables* may be appointed who ſhall have Staves with the King's Arms, as is practiſed in the reſt of his Royal Highneſs's Dominions. 7. To have the King's Arms in their *Courts of Juſtice*. 8. That what *Lands* the Officers *there have* granted, (which they had Encouragement to do by the Governor's Predeceſſor, and never had Order to the contrary) may be *confirmed*. 9. That ſeveral Orders, paſt about the Time of the Trial of the *long Finn*, as well about publick Charges, as the *Whorekill having Officers ſubordinate to thoſe of Newcaſtle*, as for clearing *Highways*, maintaining *Fences*, and *other Matters*, relating to the *Well-Government* of that Place, be *reinforced*, by the Governor's Approbation. 10. That whereas their Neighbours of *Maryland* have made
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Sept. 26. Governor *Lovelace*'s Letter, directed to Mr. *Tom* at *Delaware*; Blames him that his, the Governor's, Directions had not been vigorouſly followed on the laſt ſad Accident, which might have prevented this. Think, immediately, how a *War* may be proſecuted on theſe Villanies. In the mean Time I think it requiſite that all the Frontier ſcattering Plantations, be order'd immediately to thraſh out, or remove, all their Corn, as likewiſe their Cattle, that they may receive leſs Damage by the Effects of the *War* which will enſue. Next, that none, *on pain of Death*, preſume to ſell any *Powder*, *Shot*, *or ſtrong Waters to the* Indians. In the mean time carry it fair to the *Indians*, that they may have the leſs Miſtruſt of our Deſigns.——Tells him alſo that the Governor of *New Jerſey* is acquainted with the Affair, and is very zealous therein, and we may depend on Supply and Aſſiſtance from *him*. If a good Work were thrown about *Mattiniconk-Houſe*, and that ſtrengthned with a conſiderable Guard, it would be an admirable Frontier.——*New York* Records N° 1. Fol. 46.

Sept. 28. Governor *Lovelace*'s *Letter* from *New York* to Captain *Carr*; You being ill, I directed my Letter to Mr. *Tom*, but ſends Captain *Carr* a Duplicate of it, that he may guide himſelf by thoſe Rules which the Governor then preſcribed. —— As the Governour and Council, at this Diſtance, cannot give punctual Directions, we muſt, therefore, reſerve that to your prudent Managery, wherein I would have you, always, take deliberate Advice, from the *Commiſſaries*, before you put any thing in practice, and be ſure, on all Occaſions, to advertiſe *me* of your Motions.——*New York* Records N° 1. Fol. 47.

Sept. 29. Governour *Lovelace*'s *Paſs* dated in *New York*, to permit the Sloop *Royal Oak*, *Thomas Lewis* Maſter, to paſs out of the Port of *New York* to *Newcaſtle* in *Delaware Bay*, and, at this *particular Juncture* of time, from thence, *to go up the River* to trade and traffick as the Maſter's Occaſion ſhall require.—— *New York* Records N° 1. Fol. 47.

Nov. 7. *Minutes* of a *Joint*-Meeting of Governors and Councils (in *Eaſt New Jerſey*) by the Governor of his Royal Highneſs's Territories, and the Governor under the Lords Proprietors of *Eaſt New Jerſey*, deferring the Warr, at *that* Time, and containing ſeveral other Directions.——*New York* Records N° 1. Fol. 48.

Nov. 9. Governor *Lovelace*'s *Commiſſion*, dated at *New York*, and under the Seal of that Province, iſſued by the Advice of his Council, appointing the preſent Officers and Magiſtrates in *Newcaſtle* and *Delaware* River, or any 4 of them, to be a ſpecial *Court of Oyer and Terminer*, to try and paſs Sentence and execute it on the Murtherers, if taken. *New York* Records N° 1. Fol. 49.

Same Day. Governor *Lovelace*'s *Order*, reciting the Paſs which he had granted to *Thomas Lewis* (the 29th of *Semptember*) to trade, at this *particular* Time, notwithſtanding any *General* Order heretofore made to the contrary; but the ſaid *Lewis* being now in the ſaid River with his Sloop, where he is *ſtopt* by Order from the Officers *there*; I order the ſaid Stop to be taken off.—— *New York* Records N° 1, Fol. 49.

Nov. 10. A ſevere *Letter* from Governor *Lovelace* at *New York*, to Capt. *Carr* at *Delaware*, Complains of the Backwardneſs of the Inhabitants of *Delaware*, to bring the Murtherers to condign Puniſhment. Then as to Captain *Carr*, ſays the Governor, for you to receive *the Duke's pay* conſtantly, and the *Appearance* of Soldiers, and to let the *Fort* run ſo to decay, and not employ them in the Reparations, is but juſt a perfect *Rentcharge to the Duke*; for it is not reaſonable he ſhould be at that Expence, only to allow you a Sallary and Soldiers; beſides, the *Inhabitants* are not ſo much as digeſted into *any military Form*, *nor half* of them *armed*, tho' you have had, annually, Monitors by the Murthers committed by the *Indians*, *&c.*——*New York* Records N° 1. Fol. 51.

Nov. 24. Governor *Lovelace*'s Warrant, or *Order* to all Perſons in *this* Government, to aſſiſt a publick Meſſenger going down to *Newcaſtle*, or back again to *New York*. —— *New York* Records N° 1. Fol. 52.

Decemb. 15. Mr. *William Tom* of *Delaware*, his Letter to the Governor, acquainting him, that the *Indians* have killed and brought in one of the two Murtherers, and we deſign to hang him in Chains, and the *Indians* promiſe to bring in the other.——*New York* Records N°. 1. Fol. 52.

Dec. 22. Governr *Lovelace*'s *Anſwer* to Mr. *Tom*, approves of their hanging the *Indian's* Body in *Chains*; and if the *Indians* bring in the *other* Murtherer alive, let him ſuffer in the moſt exemplary way that may be, leaving the Manner and Place to your ſelf.——Bids him now, while the thing is freſh, enquire after the *former* Murtherers.——*New York* Records N° 1. Fol. 53.

Jan. 13. Governor *Lovelace*'s *Order*, dated at *New York*, Recites that there had been, lately, an Order of *Prohibition* made, that no *Corn* ſhould be exported out of *Newcaſtle* or any Part of *Delaware* River; ſince which, the occaſion thereof, which was the expected *War* with the *Indians*, being removed, and the Inhabitants there having Grain ſufficient for themſelves, and alſo to ſupply their Neighbours, therefore, requires all Perſons to permit Captain *Crieger* to paſs out of the Port of *New York* with his Ship, to *Newcaſtle*, there to take in *Corn*, or any other Produce of the Country.——*New York* Records N° 1. Fol. 53.

Same Day. The Governor's *Licence* to *Suſanna Garland* to Trade to *Delaware*.——*New York* Records N° 1. Fol. 53.

Jan. 10. Governor *Lovelace*'s Order or *Brief*, dated at *New York*, and granted to *Martin Hoofman*, a *Lutheran* Miniſter; requiring the Officers in *Delaware* not to hinder or moleſt him in collecting the Benevolence of the *Lutherans* in the *South River* at *Delaware* and thoſe Parts, towards building a Houſe in *New York*, for their *Church* (or People) to meet in.——*New York* Records N° 1. Fol. 54.

Jan. 16. The Governor's *Releaſe* to *Matthias Nicolls*, the Secretary, dated at *New York*, of any Damage for not having, in due time, made any *Settlement* upon a diſtant Parcel of Land which had been patented to him in *Delaware*, on the *Weſt* ſide of the River near the *Falls*, known by the *Indian* Name of *Chiepieſſing*. Provided that ſome Settlement be *now* made within 3 Years to come.——*New* York Records N°. 1. Fol. 54.

Feb. 6. The Governor's *Paſs* to permit *Helletia*, Wife of *Laurence Holſt*, to go in Captain *Crieger*'s Sloop, to *Newcaſtle* in *Delaware*, from thence, to go, *up the River*, to the *Swedes* Plantations, with Shoes, *&c.* of her Huſbands Trade.——*New York* Records N° 1. Fol. 55.

Feb. 20. From the Records of *Newcaſtle* County, Governor *Lovelace*'s *Grant*, at full length, dated at *New York*, and granted by him as he was Governor General under the *Duke of* York, of all the Duke's Territories in *America*, Reciting a *Grant* which had been made by the Officers at *Delaware* unto *Reloff Anderſon*, of 200 Acres of Land, on the *Weſt* ſide of *Delaware* River, and on the North-Weſt ſide of *Apoquiminick Creek*, bounded by *Drawers Creek*, and by *ſundry* Neighbours there named; Now the ſaid Governor, by Vertue of the Duke's Commiſſion to him, ratifies, confirms and grants the Premiſſes to the ſaid *Anderſon* in Fee, reſerving to the Duke the Rent of 2 Buſhels of Wheat. *Newcaſtle* Records N° 11. Fol. 5.

Governor

1670. *Jan.* 9. The ſaid Governor Colonel *Lovelace's Commiſſion*, dated at *New-York*, appointing *James Mills Surveyor of Land* at the *Whorekill* and *Parts adjacent*, he behaving *according to the Cuſtom* and Practice of Surveyors in theſe his *Royal Highneſs's* Territorys.——*New-York* Records, N° 1. Fol. 38.

Jan. 12. The Governor's *Li ence*, dated at *New-York*, to *William Mills*, to purchaſe a Piece of Land for a Plantation, to the *Southward* of the *Town* at the *Whorekill*, but the Extent and Quality thereof is to be certifyed to *me*, whereupon he ſhall have further Aſſurance by *Patent*.——*New-York* Records, N° 1. Fol. 38.

Feb. 24. *Minutes* of the Governor and Council at *Fort James*, on the Reſult of the Affair with the *Indians*, which Affair is reſpited till Capt. *Carr*'s Arrival; and a *Letter*, to that

29. effect, writ by Governor *Lovelace* to the Inhabitants of *Delaware*.——*New-York* Records, N° 1. Fol. 39.

Mar. 17. *Inſtructions* given, by Governor *Lovelace*, to Capt. *Crieger*, who was bound to the *Whorekills*, viz. To bring the Governor an Account of the *Encreaſe* or *Decreaſe* of the Inhabitants *there*, whether any *new* Families are reſolved to ſettle here under the Protection of his *Royal Highneſs*, and to give the Governor an Account *what the Civil Officers are*, whether the *Scout* is to be altered *this Year*, the Perſon to ſucceed him is to be recommended to the *Governor*, who will authorize him for two Years, to enquire about the *Indians* who murder'd *John de Caper*'s People, and let the Governor know under *whoſe* Juriſdiction they live, to bring the Milſtones with him, to *remove the Cuſtoms*, and to *reſtore* them to their *ancient Liberty*.——*New-York* Record, N° 1. Fol. 39.

1671. *Apr.* 15. *Minutes* of the Governour and Council of *New York*, *Delaware* Buſineſs taken into Conſideration (Capt. *Carr* being preſent) about the Murder committed by the *Indians*, about ſelling ſtrong Drink to the *Indians*. About the Murderers, they are known, but, for the preſent, not thought convenient to proſecute to the utmoſt. Capt. *Carr* relates of the *Deſire* of many Familys to come and ſettle below *Newcaſtle*, at *Apoquimini* and *Bombey*'s *Hook*, to be conſidered of; a *Letter* is ordered to be written to treat with ſome of them about their Settlement.——*New-York* Records, N° 1. Fol. 39.

Apr. 25. *A ſpecial Writ*, dated at *Fort James* in *New-York*, in an Action of Debt, brought by *Peter Jego* againſt *Cornelius Joris* now reſiding at *Newcaſtle* in *Delaware*, commanding the ſaid *Joris* to appear at the General Court of Aſſize to be held in the City of *New-York* the 6th of *October* next, to anſwer the Complaint of the ſaid Plaintiff *in an Action of Debt*. This Writ is directed to any of the Officers at *Delaware*, or in *Delaware River*, who are to ſee this *ſpecial Warrant* ſerved, and to make *Return* thereof to the Court above-mentioned, and alſo to cauſe any Attachment, laid upon the Goods of the Plaintiff by the Defendant, to be rebact, until the Trial at the Aſſizes.——*New-York* Records, N° 1. Fol. 40.

May 1. From the Records in *Newcaſtle* County, Governor *Lovelace*'s *Grant*, at full Length, which he makes, as Governor-General under the *Duke of York*, unto *Herman Rayners* in Fee, of a Lott of Land at *Newcaſtle* in *Delaware River*, bounded by the *Mart*, and by *Beaver-Street*, and by *two* Tenants.——*Newcaſtle* Records, N° 11. Fol. 4.

May 18. From the *New-York* Records, *Minutes* of the Governor and Council.——Capt. *Crieger*'s Buſineſs about the *Whorekill*. The Purchaſe of the *Whorekill*, by the *Dutch*, to be recorded. An Examination made at the *Whorekill* by Capt. *Crieger*, and the Anſwer upon it, together with three Papers brought by Capt. *Carr* concerning it. The other Matters from the *Whorekill* well approved of.——*New-York* Records, N° 1. Fol. 40.

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Note. For the better underſtanding of what follows, it is neceſſary to inform you, (tho' it is not in Proof on our ſide) that, before this Time, the Duke of *York* had conveyed away *New Jerſey* (a Tract lying between *New York* and what is now *Penſilvania*) unto the Lords Proprietors of *New Jerſey*.

Sept. 25. *Reſolves*, at a Council held at *New York* by the Governor of theſe his Royal Highneſs's Territories, and the Governour of *New Jerſey*, upon Conſideration about the ſaid Murther, not to proſecute *this* Affair about the *Indians* without *mutual* Conſent; and that the Governor of *New Jerſey* call an Aſſembly in *his* Province, to know how far *that* Province will aſſiſt in caſe of a War.——*New York* Records N° 1. Fol. 45.

Sept. 26. Governor *Lovelace*'s Letter, directed to Mr. *Tom* at *Delaware*; Blames him that his, the Governor's, Directions had not been vigorouſly followed on the laſt ſad Accident, which might have prevented this. Think, immediately, how a *War* may be proſecuted on theſe Villanies. In the mean Time I think it requiſite that all the Frontier ſcattering Plantations, be order'd immediately to thraſh out, or remove, all their Corn, as likewiſe their Cattle, that they may receive leſs Damage by the Effects of the *War* which will enſue. Next, that none, *on pain of Death*, preſume to ſell any *Powder, Shot, or ſtrong Waters to the* Indians. In the mean time carry it fair to the *Indians*, that they may have the leſs Miſtruſt of our Deſigns.——Tells him alſo that the Governor of *New Jerſey* is acquainted with the Affair, and is very zealous therein, and we may depend on Supply and Aſſiſtance from *him*. If a good Work were thrown about *Mattiniconk-Houſe*, and that ſtrengthned with a conſiderable Guard, it would be an admirable Frontier.——*New York* Records N° 1. Fol. 46.

Sept. 28. Governor *Lovelace*'s *Letter* from *New York* to Captain *Carr*; You being ill, I directed my Letter to Mr. *Tom*, but ſends Captain *Carr* a Duplicate of it, that he may guide himſelf by thoſe Rules which the Governor then preſcribed. —— As the Governour and Council, at this Diſtance, cannot give punctual Directions, we muſt, therefore, reſerve that to your prudent Managery, wherein I would have you, always, take deliberate Advice, from the *Commiſſaries*, before you put any thing in practice, and be ſure, on all Occaſions, to advertiſe *me* of your Motions.——*New York* Records N° 1. Fol. 47.

Sept. 29. Governour *Lovelace*'s *Paſs* dated in *New York*, to permit the Sloop *Royal Oak*, *Thomas Lewis* Maſter, to paſs out of the Port of *New York* to *Newcaſtle* in *Delaware Bay*, and, at this *particular Juncture* of time, from thence, *to go up the River* to trade and traffick as the Maſter's Occaſion ſhall require.—— *New York* Records N° 1. Fol. 47.

Nov. 7. *Minutes* of a *Joint*-Meeting of Governors and Councils (in *Eaſt New Jerſey*) by the Governor of his Royal Highneſs's Territories, and the Governor under the Lords Proprietors of *Eaſt New Jerſey*, deferring the Warr, at *that* Time, and containing ſeveral other Directions.——*New York* Records N° 1. Fol. 48.

Nov. 9. Governor *Lovelace*'s *Commiſſion*, dated at *New York*, and under the Seal of that Province, iſſued by the Advice of his Council, appointing the preſent Officers and Magiſtrates in *Newcaſtle* and *Delaware* River, or any 4 of them, to be a ſpecial *Court of Oyer and Terminer*, to try and paſs Sentence and execute it on the Murtherers, if taken. *New York* Records N° 1. Fol. 49.

Same Day. Governor *Lovelace*'s *Order*, reciting the Paſs which he had granted to *Thomas Lewis* (the 29th of *Semptember*) to trade, at this *particular* Time, notwithſtanding any *General* Order heretofore made to the contrary; but the ſaid *Lewis* being now in the ſaid River with his Sloop, where he is *ſtopt* by Order from the Officers *there*; I order the ſaid Stop to be taken off.—— *New York* Records N° 1, Fol. 49.

Nov. 10. A ſevere *Letter* from Governor *Lovelace* at *New York*, to Capt. *Carr* at *Delaware*, Complains of the Backwardneſs of the Inhabitants of *Delaware*, to bring the Murtherers to condign Puniſhment. Then as to Captain *Carr*, ſays the Governor, for you to receive *the Duke's pay* conſtantly, and the *Appearance* of Soldiers, and to let the *Fort* run ſo to decay, and not employ them in the Reparations, is but juſt a perfect *Rentcharge to the Duke*; for it is not reaſonable he ſhould be at that Expence, only to allow you a Sallary and Soldiers; beſides, the *Inhabitants* are not ſo much as digeſted into *any military Form, nor half* of them *armed*, tho' you have had, annually, Monitors by the Murthers committed by the *Indians*, *&c.*——*New York* Records N° 1. Fol. 51.

Nov. 24. Governor *Lovelace*'s Warrant, or *Order* to all Perſons in *this* Government, to aſſiſt a publick Meſſenger going down to *Newcaſtle*, or back again to *New York*. —— *New York* Records N° 1. Fol. 52.

Decemb. 15. Mr. *William Tom* of *Delaware*, his Letter to the Governor, acquainting him, that the *Indians* have killed and brought in one of the two Murtherers, and we deſign to hang him in Chains, and the *Indians* promiſe to bring in the other.——*New York* Records N°. 1. Fol. 52.

Dec. 22. Governr *Lovelace*'s *Anſwer* to Mr. *Tom*, approves of their hanging the *Indian's* Body in *Chains*; and if the *Indians* bring in the *other* Murtherer alive, let him ſuffer in the moſt exemplary way that may be, leaving the Manner and Place to your ſelf.——Bids him now, while the thing is freſh, enquire after the *former* Murtherers.——*New York* Records N° 1. Fol. 53.

Jan. 13. Governor *Lovelace*'s *Order*, dated at *New York*, Recites that there had been, lately, an Order of *Prohibition* made, that no *Corn* ſhould be exported out of *Newcaſtle* or any Part of *Delaware* River; ſince which, the occaſion thereof, which was the expected *War* with the *Indians*, being removed, and the Inhabitants there having Grain ſufficient for themſelves, and alſo to ſupply their Neighbours, therefore, requires all Perſons to permit Captain *Crieger* to paſs out of the Port of *New York* with his Ship, to *Newcaſtle*, there to take in *Corn*, or any other Produce of the Country.——*New York* Records N° 1. Fol. 53.

Same Day. The Governor's *Licence* to *Suſanna Garland* to Trade to *Delaware*.——*New York* Records N° 1. Fol. 53.

Jan. 10. Governor *Lovelace*'s Order or *Brief*, dated at *New York*, and granted to *Martin Hoofman*, a *Lutheran* Miniſter; requiring the Officers in *Delaware* not to hinder or moleſt him in collecting the Benevolence of the *Lutherans* in the *South River* at *Delaware* and thoſe Parts, towards building a Houſe in *New York*, for their *Church* (or People) to meet in.——*New York* Records N° 1. Fol. 54.

Jan. 16. The Governor's *Releaſe* to *Matthias Nicolls*, the Secretary, dated at *New York*, of any Damage for not having, in due time, made any *Settlement* upon a diſtant Parcel of Land which had been patented to him in *Delaware*, on the *Weſt* ſide of the River near the *Falls*, known by the *Indian* Name of *Chiepieſſing*. Provided that ſome Settlement be *now* made within 3 Years to come.——*New* York Records N°. 1. Fol. 54.

Feb. 6. The Governor's *Paſs* to permit *Helletia*, Wife of *Laurence Holſt*, to go in Captain *Crieger*'s Sloop, to *Newcaſtle* in *Delaware*, from thence, to go, *up the River*, to the *Swedes* Plantations, with Shoes, *&c.* of her Huſbands Trade.——*New York* Records N° 1. Fol. 55.

Feb. 20. From the Records of *Newcaſtle* County, Governor *Lovelace*'s *Grant*, at full length, dated at *New York*, and granted by him as he was Governor General under the *Duke of* York, of all the Duke's Territories in *America*, Reciting a *Grant* which had been made by the Officers at *Delaware* unto *Reloff Anderſon*, of 200 Acres of Land, on the *Weſt* ſide of *Delaware* River, and on the North-Weſt ſide of *Apoquiminick Creek*, bounded by *Drawers Creek*, and by *ſundry* Neighbours there named; Now the ſaid Governor, by Vertue of the Duke's Commiſſion to him, ratifies, confirms and grants the Premiſſes to the ſaid *Anderſon* in Fee, reſerving to the Duke the Rent of 2 Buſhels of Wheat. *Newcaſtle* Records N° 11. Fol. 5.

Governor

1671. *Feb.* 26. Governor *Lovelace's five* ſeveral *like Grants*, entered at full length, all dated in *New York*, and granted by Virtue of the Duke's Commiſſion to him, of ſeveral Parcells of Land, before granted by the Officers at *Delaware*. 1. To *Jacob Piana*, 188 Acres, on the Weſt ſide of *Delaware* River, and on the North-Weſt ſide of *Apoquinimick* Creek, reſerving a Quit-Rent to the *Duke* of a Buſhel and ½ of Wheat. 2. To *Garrett Otto*, 180 Acres, at the *like* Place, reſerving Quit-Rent 1 Buſhel. 3. To *Hans Hanſon* 100 Acres, at the *like* Place, reſerving Quit-Rent 2 Buſhels. 4. To *John Aronſon* and *Jacob Anderſon*, 157 Acres, reſerving Quit-Rent 1 Buſhel and ½. And 5. To *Abraham Coffin* 400 Acres, Reſerving Quit-Rent 4 Buſhels.——*Newcaſtle* Records N° 11. Fol. 6, 7, 8, 9, 10.

Mar. 12. Governor *Lovelace* ſigns *Inſtructions*, at *New York*, to one Mr. *Garland*, to make Preparation for the Governor's Voyage to *Delaware*; namely, to go before, with a Party of Horſe, near to *Mattiniconk* Iſland in *Delaware* River, *&c.* and then to Captain *Carr*, and the Commiſſarys, to get Proviſions, Boats, *&c.* and to meet the Governor at ſuch a Place.——*New York* Records N° 1. Fol. 55.

Mar. 18. Governor *Lovelace's Inſtructions*, directed to *Thomas Delawall* and *Cornelius Steynwick*, two of my Council, to the Duke of *York* in theſe his Territories of *America*. They are to the following Purport; Tells them (amongſt other things) that they are not unacquainted with the Deſign of this his Reſolution, of viſiting thoſe *more remote* Parts of the *Duke's* Territories at *Delaware*, where he hopes to ſettle all publick Affairs there, as may free him from the further Trouble of a ſudden reviſit of them.—*New York* Records N° 1. Fol. 55.

1671. In this Year a very large Folio Work (of ſeveral Tomes) was printed in *London*, being done and printed by *John Ogilby* Eſq; his Majeſty's Coſmographer, Geographick Printer, *&c.* called *Ogilby's* Atlas, adorn'd with *Maps* and Sculptures: In the ſecond Tome of which, being *Ogilby's America*, at Fol. 168. he gives an Account (very ſhortly) of the *New Netherlands*, then called *New York*, which comes up *very nearly* to the Account which the foregoing Records give. But what we principally rely on in *that* Book is, ſeveral *Maps*, which he therein publiſhed in 1671, *viz.* at Fol. 192. he gives a *Map* of *Virginia*, which is (tho' with *other* Names *additionally* inſerted then) an exact Copy of Captain *Smith's* Map.——At Fol. 182. he gives a Map of *Maryland*, with the Arms of the Lord *Baltimore*, being agreeable to that which had been printed by the Lord *Baltimore* in 1635, ſave, that he makes the dotted partition, and the 40th Degree *compleat*, to be, *then*, about 7 Miles *above* the Head of *Cheſopeak* Bay, whereas in 1635, Lord *Baltimore* had made that dotted Line and 40th Degree to *touch the Head* of *Cheſopeak* Bay.—— And at Fol. 168. he gives a third *Map*, with this Title, *Novi Belgii quod nunc Novi Jorck vocatur, Novæque Angliæ, & partis Virginiæ, accuratiſſima & noviſſima Delincatio*; in which laſt mentioned Map he, again, *nine Years before* ever the Plaintiff's Father had any thing in the World to do with *America*, lays down, ſeparately and diſtinctly, Cape *Cornelius* and Cape *Hinlopen*, as two *ſeparate* and diſtinct Capes; and Cape *Hinlopen* at a large Diſtance South of Cape *Cornelius*, (exactly as it was laid down in the Maps made uſe of by all the Parties to this Cauſe in concluding the Articles of Agreement which are now in Queſtion.) And this is ſo well a known Work, that if the Defendant had ever looked into it (as he muſt have done) he could not have fancied any thing of the *pretended* impoſition, as he would now complain of, having been committed in 1732; whereas the *old Dutch* Map of 1663, (at the lateſt, but moſt likely many Years *older*) and this *Engliſh* Map printed in this great Work in *London*, in 1671. *both* contain the *two ſeveral* Capes as before mentioned.——This Book of *Ogilby's* is ſpoke to by *Paris* and other Witneſſes, and the Reference to it is, *Ogilby's* Atlas, To. 2. in large Folio; and at Fol. 192, 182, and 168 therein.

Mar. 17. An *Order* of the King and Council, that the Secretary of State ſhould publiſh his Majeſty's *Declaration* againſt the States General, and the ſaid Declaration (which is a Declaration of *War* againſt them both by Sea and Land.)—Theſe are proved from the *Council Regiſter* by *Dickenſon*, and make the Exhibit Co. Off. N° 3.

1672. *Apr.* 8. Governor *Lovelace's Grant*, by Vertue of the Duke's Commiſſion to him, dated at *Newcaſtle* in *Delaware* River, Reciting that the Dutch Governor, *Peter Stuyveſant*, did on 27 *Sept.* 1655, grant to *Iſaac Tyne*, a Lot and Houſe, at *Newcaſtle*, and *Tyne* having on 17 and 20 *Octob.* 1662, purchaſed two *other* Lots, all contiguous to each other, the ſaid Governor ratifies, confirms and grants the ſame unto the ſaid *Tyne*, in Fee. Reſerving the Quit-Rent of a Buſhel of Wheat to the *Duke*.——*Newcaſtle* Records N° 11. Fol. 11.

May. 6. The Governor's *Order*, dated at *New-York*; Whereas the Time is expired for the Officers holding their Places of Scout and Commiſſarys at the *Whorekill*; the Inhabitants there are hereby impowered to make a *New Election*, upon the return of whoſe Names *to me*, they ſhall have ſuch further Confirmation as ſhall be requiſite.——*New York* N° 1. Fol. 55.

May 17. *Minutes* of the Governor and Council at *New-York*. 1. About the Town of *Newcaſtle's* being a Corporation, it's allowed of, and that it be a Bayliwick, and governed by a Bayly and 6 Aſſiſtants; after the firſt Year, 4 old ones to go out, and 4 other to be choſen in their Places. The Bayly to be Preſident, and have a double Vote. A *Conſtable*, to be choſen by the Bench. To try *Cauſes*, as far as 10*l. without Appeal*. 2. As to the *Engliſh* Laws, according to their Deſire, to be eſtabliſhed in *that* Town and *River*. The Office of *Scout* to be converted into a *Sheriff*, for the Corporation and *River*, and that he be *annually* choſen. 3. As to the 3d, to have *free Trade*, without being obliged to make entry *here*, that the Determination *thereof* be ſuſpended, until advice be ſent about it out of *England*, or other Conſiderations had thereof.——*New-York* Records N° 1. Fol. 56.

June 10. *Minutes* of the Governor and Council at Fort *James*; As to the Matter about Captain *Carr*, and *Delaware*, the Orders made, laſt Council, about the Town and River, to be allowed and ſent. The Continuance of the Garriſon in pay, taken into Conſideration, whether there is *any* Occaſion for them any longer or no? That they continue, as they are, till *further* Order.——*New York* Records N° 1. Fol. 57.

July 1. *Minutes* of the Governor and Council of Fort *James*; The Buſineſs of the *Whorekill*, about a Diſturbance there from *Maryland*.——Mr. *Fletcher* makes good what he writ againſt *Daniel Browne*, for his abuſive Language againſt the Duke's Intereſt, and it is atteſted by the *Commiſſarys* and others from thence; *Ordered*, that *Daniel Browne* ſhall enter into a Recognizance of 20*l.* for the good Behaviour, *&c.* which Order recites, that *Daniel Browne*, a Planter at the *Whorekill* in *Delaware* Bay, was committed and ſent a Priſoner *hither* (*New York*) by the *Magiſtrates* there, for contemning the Authority of *their* Court held by Approbation of the Governor, under the Protection of his Royal Highneſs, together with ſeveral *other* abuſes; but he having acknowledged his Fault, and begging Pardon, and that Confinement would ruin his Affairs; *ordered* a Letter of Thanks be ſent, to the *Magiſtrates* at the *Whorekill*, and that *Browne* be releaſed, he entring into a Recognizance, before his Departure, in 20*l.* to keep the Peace, which if he break, he is to be again ſeized upon, and ſent Priſoner *to this Place, there* to receive Puniſhment; and he is likewiſe, at his Return, to acknowledge his Fault, and aſk pardon of the *Magiſtrates at the* Whorekill.——As to the Requeſt from the *Whorekill*, that *they* may lay an Impoſition on ſtrong Liquors ſold there, it is allowed of and conſented to; and the *Magiſtrates there*, have, hereby, Power to levy and receive the Value of four Guilders, in Wampum, upon each Anchor; this to continue for one Year only, till the Conveniency or Inconveniency ſhall better appear.——*New York* Records N° 1. Fol. 57.

Aug. 1. The Governor's *Order* at Fort *James in New York*. Upon the Return of a *double* Number, from the Inhabitants at the *Whorekill* in *Delaware* Bay, for *Scout and Commiſſarys*, I approve of ſuch and ſuch for Scout and Commiſſarys, for one Year; *after which* they are to make a *new* Return.——*New York* Records N° 1. Fol. 58.

Aug. 2. The Governor's *Commiſſion* dated at Fort *James* in *New York*, appointing *Peter Alricks*, one of the two Perſons return'd to him, to be *Bayliff* and principal Civil Magiſtrate of the *Corporation* of *Newcaſtle* in *Delaware* for the enſuing Year. And he is, in all things, to be regulated by the Laws of *this* Government, and ſuch Inſtructions as have been given him by *me* and my Council.——*New York* Records N° 1. Fol. 58.

Same Day. The ſaid Governor *Lovelace's Commiſſion*, dated at Fort *James* in *New York*, appointing Captain *Edmund Cantwell*, one of the two Perſons return'd to him, to be *High Sheriff* in *Newcaſtle* and *Delaware River*, for the Year enſuing.——*New York* Records N° 1. Fol. 58.

Aug. 7. Governor *Lovelace's Commiſſion* to Captain *Edmund Cantwell*, dated in *New York*, appointing him to enquire after, and make ſeiſure at *Newcaſtle*, and on the Weſt ſide of *Delaware*, of all *ſtray Horſes*, neat Cattle, or Swine, unmarked, and having no certain Owner; and to diſpoſe of them for his *Royal Highneſs's* uſe, and render *to the Governor* an Account thereof.——*New York* Records N° 1. Fol. 59.

Same Day. Governor *Lovelace's Commiſſion*, to the ſaid Captain *Cantwell*, dated in *New York*, authoriſing him to demand, levy and receive all Arrears of *Quit Rent*, due from any the Inhabitants of *New-Caſtle* and *Delaware River*, according to the Reſervation in their particular Patents, of which he is to have an authentick Liſt out of the *Records*.——*New York* Records N° 1. Fol. 59.

Aug. 8. From the Records in *New York*; *An Order* reciting that *Complaint* has been made to me (the Governor) by *Jan Cornelius* and two others, Inhabitants at *Amſtand*, in *Delaware River*, that after having quietly poſſeſſed a Meadow, upon the Iſland over againſt *Calcoone Hook*, *Iſrael Helme*, by Miſrepreſentation, obtained a *Patent* for the ſame, having never Poſſeſſion or Pretence thereto before; ſo that the ſaid Inhabitants are diſpoſſeſſed, to the Ruin of their Plantations without *Relief*; I authorize and impower *the Court at* Upland, with the Aſſiſtance of one or two of the *high Court*, to examine into the Matter, and make Report of the Truth thereof *to me*, that *I* may make ſome Order thereupon, according to *Equity and good Conſcience*.——*New York* Records N° 1. Fol. 59.

Aug. 12. *Letter* from Governor *Lovelace*, dated in *New York*, directed to *Philip Calvert* Eſq; Governour of *Maryland*, complaining of ſome *horrid Outrages*, committed upon his Majeſty's Subjects under the Protection of the *Duke's* Authority, as were exerciſed by one *Jones*, who, with a diſſolute Party, took the Pains to ride to the *Whorekill*, where, in Deriſion and Contempt of the *Duke's* Authority, bound the Magiſtrates and Inhabitants, rifled and plundered them of their Goods; and when his Authority was demanded, anſwered only by a cock'd Piſtol to the Perſon's Breaſt; telling him, that *his Highneſs* will not be ſatisfied with theſe violent Proceedings, the Indignity whereof rebounds on him; and it would be as eaſy for Governor *Lovelace* to retaliate the ſame Affront on *Jones*, and his Accomplices, but that *he firſt* chuſes a more calm Redreſs from Mr. *Calvert*, to whom he now appeals, expecting the Caſtigation of *Jones*, *cum Sociis*; otherwiſe, he muſt take *other Remedies* as the Exigence of this Indignity ſhall perſwade him to.——*New York* Records N° 1. Fol. 60.

It ſeems by what follows by and by, that no Reparation was made by Governor *Calvert*, but a farther injury afterwards committed.

Same Day. The Governor's *Order* to *Captain Edmund Cantwell*, High Sheriff of *Newcaſtle* and *Delaware*, to cauſe ſome Land to be ſeated and cleared, by a Tenant or otherwiſe, on the Weſt ſide of *Delaware* River, which had been formerly granted unto *Richard Gorſuch*, and ſince by him aſſigned to the Governor.——*New York* Records N° 1. Fol. 60.

Aug. 13. The Governor's *Order* at *New York*, made at the Requeſt of *Jeuffro Armegart Prince*, living in *Delaware* River, excuſing her Man Servant from ordinary *Trainings* in the Company in which he was inliſted; and alſo giving her *Licence* to *diſtil* ſome Liquors for her own Uſe, and her Servants and Labourers in Huſbandry. The Licence to continue one Year.——*New York* Records, N° 1. Fol. 60.

Sept. 5. From *New York* Records, *Order* to Captain *Carr*, upon the Complaint of *Robert Williams*, that *John Ogle*, one of the Soldiers at *Newcaſtle*, is indebted to him about 10*l.* requiring the Officers there to examine into the Matter, and if it be as alledged, to give Orders for the Payment, or ſecuring the Debt from *Ogle* for the Creditor.——*New York* Records, N° 1. Fol. 60.

The ſame Day. The Governor's *Order* to one *Bedloo*, to pay ſome Perſons their Boat Hire, for carrying, and bringing back the *Troopers Horſes*, in the Expedition to *Delaware*.—*New York* Records, N° 1. Fol. 61.

Sept. 28. In *New York* Records, a *Permit* to *Chriſtopher Hoogland*, to go to *Newcaſtle* at *Delaware*, and from thence *up the River*, to receive or ſecure his Debts; *any* Order to the contrary notwithſtanding. *New York* Records, N°. 1. Fol. 61.

Oct. 1. *Grant* from Governor *Lovelace*, dated in *New York*, unto *Hubert Hendrickſon*, in Fee, of three Lots of Land in *Newcaſtle*, reſerving two Buſhels Quit Rent to the *Duke*.—*Newcaſtle* Records, N°. 11. Fol. 12.

Oct. 7. Governor *Lovelace's Letter*, dated from *New York*, to Captain *Carr*, owning the Receipt of his Relation and Papers about the *Whorekill*, and the *Marylanders forcibly poſſeſſing themſelves of the Place, as alſo of the Goods and Eſtates of ſome of the Inhabitants*. I heard, but did not give Credit to it before, ſuppoſing it the raſh Action of ſome *private* Perſon; not thinking the *Authority* of *Maryland* would invade the *Duke's* Territories, which he hath been poſſeſſed of for near eight Years: Their *former* violent Action, and Force, upon thoſe poor, unarm'd People, together with the Particulars of their Plunder, I immediately ſent to the *Duke*, and may expect Directions in a ſhort Time, till when, it is beſt, for the preſent, to leave Matters as they are. As to the Cloud, which likewiſe hangs over your Heads *at Delaware*, which, it is ſaid, *they* are making Preparations to invade, my Orders are, put yourſelves in the beſt Poſture of Defence, fit up the Fort, keep your Companies in Arms, both there and up the River, in the Town, eſpecially, make your Guard as ſtrong as you can, and keep a ſtrict Watch. If any Enemy comes to demand the Place, firſt deſire to know their Authority and Commiſſion, and how thoſe of *Maryland* ſhould, now, make ſuch an Invaſion, *after ſo long, quiet Poſſeſſion of thoſe Parts, by the Duke's Deputies*, under his Majeſty's Obedience, *and by other Nations before that, ſeveral Years before the Date of Lord* Baltimore's *Patent*, whom they *never* diſturbed by Arms, and whoſe Right is now devolved upon the *Duke*. Stand well on your Guard, and don't begin; but if they fire, or commit any hoſtile Action, then, uſe all poſſible Means of Defence.——*New York* Records, N° 1. Fol. 61.

So that it appears hereby, that this was the Time when the *Marylanders*, by Force, poſſeſſed themſelves of the *Whorekills*, but they did not keep Poſſeſſion of it, as you'll preſently find.

Dec. 16. From *New York* Records, *A Warrant* directed to the Sheriff of that City, to take into his Cuſtody the Body of *William Douglas*, brought thither a Priſoner from *Newcaſtle* in *Delaware*, he having been formerly baniſhed out of this Government for great Miſdemeanors, and to keep him without Bail or Mainprize, till further Order.——*New York* Records, N° 1. Fol. 62.

Jan. 27. *Minutes* of the Governor and Council at *New York*, upon repreſenting to them the Inconvenience of debarring Veſſels of *this* Place from going up the River above *Newcaſtle*, as alſo the Diſtaſte taken, that *ſome* have had Licences ſo to do, while *others* are reſtrained, It is ordered, that the Prohibition thereof be taken away, and *all Sloops* may go up that River, taking a Certificate from the Governor of his going *from hence*; but no other Veſſel ſhall have that Liberty, but ſuch as ſail from *this Place* thither directly.——Upon a Letter from Mr. *Wharton*, and Captain *Cantwell*, and a Propoſal for *the Reducement of the* Whorekill, by the Officers from *Delaware*, the Conſideration thereof

ſuſpended

ſuſpended for a ſhort Time.—On the Letter with which *William Douglas* was ſent from *Delaware*, it is ordered, in regard of the Trouble he has given the Country, that he be ſent, by *William Shackerley*, to *Barbadoes*, there to be *ſold*, to make Satisfaction towards the Charges he has occaſioned.—*New York* Records, N° 1. Fol. 62.

1672. *Feb.* 29. The Governor's *Order*, dated at *New York*, Recites, that *Jeuffro Armegart Prince* obtained a Judgment on Verdict of a Jury, at the laſt General *Court of Aſſize*, againſt *Andrew Carr*, and his Wife, for 3000 Guilders, or 300 *l.* Sterling, the Determination whereof being referred to the major Part of the Bench, they made a Report, that 50 *l.* ſhould be allowed for Intereſt, leaving the other Charges and Coſts to the Determination of the Law. Upon due Conſideration had thereupon, the Governor *confirms* and approves of the Judgment for the 300 *l.* and 50 *l.* for Intereſt, together with 5 *l. more*, towards the Plaintiff's Charges, and the uſual Coſts of Court, all which is to be levied upon the Eſtate and Goods of the Defendants in *Delaware* River, or elſewhere, within the Government: To which End the Governor appoints four Perſons to be Commiſſioners to appraiſe, and ſet a Value upon the Iſland of *Titticum* in *Delaware* River, not long ſince in the Tenure of the Defendants, as alſo all other Goods or Eſtate belonging to them, to make Payment to the Plaintiff.——*New York* Records, N° 1. Fol. 62.

The ſame Day. The Governor at *New York* ſigns *an Execution*, directed to the Sheriff of *Newcaſtle*, in *Delaware* River, againſt the ſaid Defendants, for the aforeſaid Debt, *&c.*——*New York* Records, N° 1. Fol. 63.

March 10. A *Paſs* for *John Schouten*, to go, with his Sloop, to *Newcaſtle* in *Delaware* River, or Parts adjacent, and to return again with his Loading hither.——*New York* Records, N° 1. Fol. 63.

The ſame Day. A *Licence* to *John Garland*, to trade or traffick with the *Indians*, or others, at the *Whorekill*, or any other Parts at *Delaware*, in any Goods not prohibited, and likewiſe to go up the River above *Newcaſtle*, in any Veſſel belonging to *this Place*, according to the Toleration granted by me in Council, 27 *January* laſt. And all Officers and Magiſtrates at *Delaware* are required not to hinder him, any *former* Orders to the contrary notwithſtanding.——*New York* Records, N° 1. Fol. 63.

1673, *Apr.* 7. *Two* ſeveral *Grants* at full Length, from Governor *Lovelace*, as the Duke's Governor, both dated in *New York*. 1. To *Mathias de Ring* and *Emilius de Ring* of a Houſe and Lot of Ground at *Newcaſtle*, reſerving to the *Duke* the Quit Rent of one Buſhel. 2. To Captain *Edmund Cantwell*, and *Johannes de Haes*, of 100 Acres of Land between *Dog* Creek and *Namons* Creek, reſerving to the *Duke* the Quit Rent of one Buſhel of Wheat.—*Newcaſtle* Records, N° 11. Fol. 13, 14.

April 14. From the *New York* Records, *Minutes* of the Governor and Council.—The Affair of the *Whorekill* taken into Conſideration; Letters read from Captain *Carr*, Captain *Wharton*, and Captain *Cantwell*; with their Propoſals for *Reducement of the Place*; it is ordered, that a Commiſſion be ſent, to the Officers and Magiſtrates at *Delaware*, to *go to the* Whorekill, there *to keep a Court in the King's Name*, and enquire of all *irregular Proceedings, and ſettle the Government and Officers there*, as *formerly, under his Majeſty's Obedience, and the Protection of his Royal Highneſs*; for which there ſhall likewiſe be ſent *particular Inſtructions*.——*New York* Records, N° 1. Fol. 64.

So that this ſhews that the *Marylanders* did not keep Poſſeſſion of the *Whorekills*.

June 24. *Minutes* of the Governor and Council, and a *Proclamation*, reciting the great Scarcity of *Wampum*, throughout the *Duke's Territories*, which was paid and received as Current Payment there, in *all* Tranſactions between Man and Man: Therefore, in order to bring in *Wampum*, encreaſing, and raiſing the Value of it to one Third more than it was of before; and this Proclamation ſhall be ſent, and promulgated in *Albany*, *Eſopus*, and *Delaware*, *&c. there* to be in Force.——*New York* Records, N° 1. Fol. 64.

It is hoped the foregoing Records, under this Chapter, afford ſuper-abundant Proof of the Fact, that the Duke of *York* (alſo) from 1663 to 1673, did actually *poſſeſs* both *New York*, and *Delaware*; and that he, by his ſucceſſive Governors, Colonel *Nicholls*, and Colonel *Lovelace*, held and accounted *Delaware*, *as Part of*, *and appurtenant*, in his Time, to *New York*; and that he did, in the Terms of our Allegations in our Bill, *all Sorts* of Acts of Ownerſhip, Government, and Propriety in *Delaware*, equally, and as well as in *New York*.

But, it being now Time of War with the *Dutch*, they, by the Numbers of *Dutch* left there at the former Conqueſt, did, about this Time, for a few Months only, diſpoſſeſs the Duke, as ſhall be ſhewn in the next Place.

Chap. IV. Of the *Dutch* regaining Poſſeſſion (for a few Months) of *New York* and *Delaware* alſo.

1673. *Aug.* 12. OUT of the *Dutch* Record Book, (remaining in the Secretary's Office of *New York*) containing Orders of the *Council of War*, by the Commanders of the *Dutch* Squadron—is extracted the following *Dutch Commiſſion*, *viz.*—The noble and ſtrict Council of War, under the States General and Prince of *Orange*, of a *Squadron of Ships* now riding at Anchor in *Hudſon*'s River, in *New Netherland*. To all, *&c.* Greeting. Whereas it is neceſſary to appoint a fit Perſon, who, *as Governor General*, is to have the chief Command over *this Conqueſt* of *New Netherland*, *with all its Appendencies and Dependencies*, *beginning* from *Cape Hinlopen*, or South Side, of *the South*, or *Delaware Bay*, and 15 *Miles more Southerly*, (with the ſaid *Bay*, and *South River*, included) as the ſame, *in former Times*, by the Directors of the City of *Amſterdam*, and, *afterwards*, by the *Engliſh Government*, in the Name, *and under* the Duke of *York*, *was poſſeſſed*; and further, from ſaid Cape *Hinlopen*, alongſt the main Ocean, to the Eaſt End of *Long Iſland*, and from thence Weſtward, *&c.* provided it come not within ten Miles of the North River, in purſuance of ſome proviſional Limits made in the Year 1650, and afterwards by the States General, on 20 *Feb.* 1656. and on 23 *Jan.* 1664. ratified; ſo we, by Virtue of our Commiſſion, granted to us by the *States General*, and Prince of *Orange*, do appoint *Anthony Colve*, the Captain of a Company of Foot in the Service of the States General, and the ſaid Prince, *as Governor General*, thoſe Lands, and Forts thereto belonging, with all its *Appendencies and Dependencies*, to govern, rule, and againſt all Invaſions of Enemies to defend; ordering all Officers, Judges, Magiſtrates, Commanders, Soldiers, Freemen, and all Inhabitants of thoſe Countries to obey him, *as Governor*. Dated in Fort *William Hendrick*; and ſigned *Cornelius Everſe* Jun. and *Jacob Binkes*.——*Dutch* Records from *New York*, N° 2. Fol. 43.

Sept. 19. At the Meeting of the Gentlemen, Commanders, and *Council of War*, held 19 *Sept.* 1673. the foregoing Commiſſion, for Governor General *Anthony Colve*, was *regiſtred* this Day, by Order of the Commanders.——*Dutch* Records, N° 2. Fol. 43.

Sept. 19. The ſame Day Governor *Anthony Colve*, by the Title of *Governor General*, under the States General, and Prince of *Orange*, by his *Commiſſion*, reciting the Neceſſity to appoint a Perſon to be *Commander* and *Sheriff*, in the *South River* of *New Netherland*, laſt called *Delaware*, *beginning from Cape* Hinlopen, and as much more *Southerly* as the ſame, *heretofore*, in the Time of the *former Dutch* Government, was poſſeſſed and enjoyed, to the *Head* of the ſaid River; and reciting the good Character of *Peter Alricks*, late Enſign and Factor *there*, at the Time of the ſaid *former Dutch* Government, does appoint the ſaid *Peter Alricks* Commander, and Sheriff of the ſaid River, and the Inhabitants thereof, to govern and rule, under the chief Command and Direction as aboveſaid, the ſaid River and Inhabitants, as well on the Eaſt as *Weſtern* Shore, and to defend them from all Enemies Invaſions. Dated at Fort *William Hendrick* in *New Netherlands*; ſigned *A. Colve*.——*Dutch* Records, *New York*, N° 2. Fol. 45.

Feb. 16. An Entry in the *Dutch* Book of Records, that a *Patent* and Ground Brief was granted to two Brothers, *Ephraim* and *Caſpar Harmans*, for a Neck, or Piece of Land, in the *South River*, below *New Amſtel*, on the South Side of *Apoquinimini* Creek, by *Dreck* Creek, and *St. Auguſtine*'s, or *Arien*'s Creek, containing, beſides the Meadows, 250 Morgan, (500 Acres) which Ground Brief is ſigned by the Governor *Colve*, and the Secretary *N. Bayard*.——*Dutch* Records, *New York*, N° 2. Fol. 45.

The ſame Day. The ſame *Grant* entered at full Length in the *old* Records of *Newcaſtle* County.—*Newcaſtle* Records, N° 11. Fol. 15.

Feb. 19. *Articles of Peace* between King *Charles* the Second, and the States General, concluded at *Weſtminſter*, the 6th Article whereof is in theſe Words, "That whatever *Country*, "Iſland, Town, Haven, Caſtle, or Fortreſs hath been, or ſhall be taken, by either Party, from the other, ſince the Beginning of the late unhappy War, whether in *Europe*, *or* "*elſewhere*, and before the Expiration of the Times above limited for Hoſtility, ſhall be *reſtored* to the former Owner, in the ſame Condition it ſhall be in at the Time of pub-"liſhing this Peace."——This is printed by the King's Printer, and by the King's Special Command, ſo long ago as 1685, and is the printed Book of Treaties, Fol. 180.

Certificate from the King's Prothonotary in Chancery, that He cannot find any Inrollment of this Treaty neither, nor any Original, or other Tranſcript, or Memorial of it.——Paper Certificate.

Note, This Treaty alſo has been diligently enquired after by *Paris*, but is loſt.

So that by this Treaty we ſee the *Dutch* gained but a *ſhort* Poſſeſſion of *New York* and *Delaware*, of a very few Months only, before they *reſtored it again* to this Crown, by *Treaty*.

Chap. V. From the New Grant made by King *Charles* the Second to the Duke of *York*, in *June*, 1674. down to the Time of granting *Penſilvania*, and the *Lower Counties*, to Mr. *Penn*, and his being in full Poſſeſſion of all the ſame, at the End of the Year 1682.

26 Car. II. 1674, *June* 29. FROM the Chapple of the Rolls, Copy of the Grant made (without any Recital) to the Duke of *York*, by Letters Patent, of *All* that Part of the main Land of *New England*, beginning at *St. Croix*, next adjoyning to *New Scotland* in *America*, and extending, along the Coaſt to *Pemaquid*, and ſo, up the River thereof, to the furtheſt Head of the ſame, as it extended Northwards; and extending, from thence, to the River of *Kinebequie*, and ſo, upwards, by the ſhorteſt Courſe, to the River *Cannada*, Northwards; and alſo all that Iſland called *Mattowacks*, or *Long Iſland*, lying towards the Weſt of Cape *Codd*, and the *Narrohiganſetts*, abutting upon the main Land, between two Rivers there, ſeverally called *Connecticut's*, and *Hudſon*'s River; and the ſaid River, called *Hudſon*'s River; and all the Land, from the *Weſt* Side of *Connecticut* River, to the *Eaſt* Side of *Delaware* Bay; and alſo all thoſe ſeveral Iſlands, called *Martin Vinyards*, and *Nantukett*; *together with all the Lands*, Iſlands, *Soils*, *Rivers*, *Harbours*, Mines, Minerals, Quarries, *Woods*, *Marſhes*, *Waters*, Lakes, Fiſhings, Hawkings, Hunting, and Fowling; and all other Royalties, Profits, *Commodities*, *and Hereditaments*, to the ſaid ſeveral Iſlands, Lands, and Premiſes *belonging and appertaining*, *with their*, *and every of their Appurtenancies*; and all the King's Eſtate, Right, Title, Intereſt, Benefit, Advantage, Claim, and Demand, of, in, or to the ſame, or any Part thereof,

To hold to the Duke of *York* in Fee, to be held of the King, as of the Manor of *Eaſt Greenwich*, in free, and common Soccage, and not by Knights Service, rendering 40 Beaver Skins yearly;

With *Powers of Government*, *&c.* granted to the Duke of *York*, and *to appoint Governors*, Officers, and Miniſters under him; and an expreſs Power (Fol. 4.) to the Duke of *York*, his Governors and Officers, for their Defence and Safety, to *encounter and expulſe*, by Force of Arms, as well by Sea as by Land, all ſuch Perſons as, without their Licence, ſhould attempt to inhabit within the ſeveral *Precincts* and *Limits* of his Majeſty's ſaid Territories, and Iſlands, *&c.* Being in the like Words with the former Grant, made to the Duke in 1663.——This Exhibit is proved by *Bulmer*, and is *Rocha*, N° 5.

Pleaſe to obſerve, that this *ſecond* Grant to the Duke of *York*, of all Lands *belonging* to his great Settlements, when, *in Fact*, *Delaware* had really *belonged* to thoſe great Settlements for *ten Years* together before, in the Hands of the Duke of *York himſelf*, as well as that it had alſo, *before that*, belonged to the *Dutch*, whilſt they had the Poſſeſſion of *New Netherlands*, (from 1629 to 1674, in the whole) ſeems to make thoſe general Words *more ſignificant and effectual* to the Duke of *York*, in this *ſecond* Grant, than they were in the *firſt* Grant, made to him 11 Years before.

July 1. In two Days after the Grant to the Duke of *York* he granted a *Commiſſion*, reciting the Letters Patent to himſelf, and appointing Major *Edmund Andros* to be his *Lieutenant and Governor* within the Lands, Iſlands and Places aforeſaid, to execute all Powers, which by the ſaid Patent were granted to the Duke; requiring all the Inhabitants to yield Obedience to the ſaid *Edmund Andros* Eſq; and the ſaid *Edmund Andros* to obſerve all ſuch Orders as he ſhould receive from the Duke.——This Commiſſion is enrolled at *New-York*, and our Copy from thence is *New-York* Records, N° 1. Fol. 65.

Oct. 31. A Record of Matters paſt *in Council* ſince the Governor's receiving the Province of *New-York* from the *Dutch*, *Oct.* 31. 1674.—*Saturday*, *Oct.* 31. 1674. The *Fort* being, *this Day*, ſurrendred to the Governor, Mr. *Matthias Nicolls* was, at the City-Hall, ſworn one of the Council. Three Conſtables for the City of *New-York* were there likewiſe appointed and ſworn.——*New-York* Records, N° 1. Fol. 66.

Nov. 2. *By the Governor*, It is reſolved and ordered that the *Magiſtrates* at *Albany*, &c. who were in place at the time of the *Dutch* coming here, in *July* 1673, *be re-eſtabliſhed*; *the ſame for* Delaware *River* (except *Peter Alricks* the Bayliff, he having *profer'd* himſelf to the *Dutch*, at their firſt coming, *of his own Motion*, and acted very violently, *as their chief Officer*, ever ſince)——*New-York* Records, N° 1. Fol. 66.

Nov. 3. Governor *Andros*'s Letter, dated at *New-York*, to the Governor of *Maryland*, acquainting him that he had, on *Saturday* laſt, received that Place, *and Dependencies*, from the *Dutch*, in behalf of his Majeſty, to continue, as formerly, under the Command of his *Royal Highneſs*. He takes this *firſt* Opportunity to acquaint him thereof, and that he has given Orders that all Officers and Magiſtrates of that Government and *Delaware* do take Care, on this Change, to prevent, or *redreſs*, any kind of Injury to the neighbouring Colonys, and will not doubt the like on the Governor of *Maryland*'s Part.——*New-York* Records, N° 1. Fol. 67.

Nov. 4. Several *Officers* are *appointed* for ſeveral Places in *New-York* itſelf; after which it goes on thus, *viz.* Capt. *Edward Cantwell*, formerly Sheriff, to be Scout or *Sheriff* of *Delaware*, Mr. *William Tom* to be *Secretary* or Clerk *there*; Ordered that Capt. *Cantwell* and Mr. *Tom* be authorized to take poſſeſſion of the *Fort*, Cannon, and all other Stores of War of *Newcaſtle*, or *any Part* of *Delaware River*, for his Majeſty, purſuant to the Articles of Peace, and to remain in the Command thereof until further Order; That Capt. *Cantwell* and Mr. *Tom* have an Order to receive the *Quit Rents*, *and all other Dutys*, *whether Cuſtoms or Exciſe*, as *formerly* was *eſtabliſhed* before the *Dutch* coming to the Place; and, for *Cuſtoms*, it is, ſince, eſtabliſhed by his *Royal Highneſs*; and to return *to me* a due Account of the State of *all other* Matters relating to the *Revenue* by the firſt Convenience.—*New-York* Records, N° 1. Fol. 66.

Governor

74. *Nov.* 4. Governor *Andros*'s *Commiſſion*, dated in *New-York*, appointing certain Perſons whoſe Names are left in blank, but the Commiſſion is directed, "To the Commiſſarys of "*Newcaſtle* in *Delaware*, *who were in Office* at the time of the *Dutch* coming into theſe Parts in *July* 1673;" The Commiſſion recites, that the Governor had received *that* Place and Government in the behalf of his Majeſty, from the *Dutch*, and being inveſted in the Command thereof *under the Duke*, he, in his Majeſty's Name, appoints them to be *Commiſſarys* in the Town of *Newcaſtle* upon *Delaware* River and *Dependances*, authoriſing them to act according to the Laws and Cuſtoms as had been uſed amongſt them during his *Royal Highneſs's* Government in Governor *Nicolls* and Governor *Lovelace*'s time. Impowers them alſo, to give Order for electing a *Conſtable, in each of the other Towns adjacent*, and to adminiſter the Oath to him, as directed in the *Laws eſtabliſh'd by his Royal Highneſs*.——*New-York* Records, N° 1. Fol. 68.

Same Day. A ſhort Letter from Governor *Andros* along with that Commiſſion.——*New-York* Records, N° 1. Fol. 68.

Nov. 4. 5. *Two ſeveral Commiſſions* from Governor *Andros*, *both* dated in *New-York*, 1. Appointing Capt. *Edmund Cantwell* and *Johannes de Haas* to receive the *Quit-Rents* at *Delaware*, and Arrears thereof, together with all *other* Dutys, whether *Cuſtom or Exciſe*, as were due and *formerly* eſtabliſht before the *Dutch* coming into the Place in *July* 1673, as alſo for the *Cuſtoms* now, as they have been *ſince* ordered by his *Royal Highneſs*, a Copy whereof is herewith ſent; and ordering theſe Perſons to ſend to Governor *Andros* a due Account of theſe, as well as of *all other Matters*, relating to the *Revenue and Government*.——2. The *Second* Commiſſion appoints *William Tom Secretary* for the Town of *Newcaſtle* on *Delaware*.——*New-York* Records, N° 1. Fol. 69.

Nov. 6. Governor *Andros*'s further *Commiſſion* dated in *New-York*, recites *that* Delaware *is a Dependant on* New-York, and authorizes Capt. *Cantwell* and Mr. *Tom* to receive the *Fort* at *Newcaſtle*, as alſo the *Cannon*, and Stores of War *there*, or any *other* Part of the *River*, for the King's Uſe, purſuant to the Articles of Peace; and alſo to ſend to any *other* Part of the Country for *repoſſeſſing* and *ſettling* any of his Majeſty's Subjects in their juſt Rights, *and particularly at the* Whorekill.——*New-York* Records, N° 1. Fol. 69.

Same Day. An *Entry* of the Names of five Perſons *as Juſtices* for *Newcaſtle*, and five more for the *River*.——*New-York* Records, N° 1. Fol. 70.

Same Day. Nov. 9. Governor *Andros*'s *Proclamation*, dated in *New-York*, recites that the King and the Duke had ſent him over to receive that Place and Government from the *Dutch*, and to continue in the Command thereof *under the Duke*, he confirms all former Grants, Privileges, and Eſtates legally poſſeſt under the *Duke* before the late *Dutch* Government; and declares that the known Book of *Laws*, formerly eſtabliſht and in Force under the *Duke*'s Government, is now again confirmed by the *Duke*, and *Courts* are to be held, and *Magiſtrates* and *Civil Officers* belonging thereto, are to be choſen, and eſtabliſht, accordingly.——*New-York* Records, N° 1. Fol. 70.

Nov. 11. Governor *Andros*'s *Commiſſion*, dated in *New-York*, impowering Capt. *Cantwell* and Mr. *Tom*, to adminiſter the Oath, to the Commiſſarys at *Newcaſtle*, to thoſe of the Court *up the River*, and to thoſe at the *Whorekill* in the *Bay*.——*New-York* Records, N° 1. Fol. 71.

So that the Duke of *York* has clearly now the Poſſeſſion of the *Whorekills* again.

Nov. 12. Governor *Andros*'s *Order*, dated in *New-York*, to Capt. *Cantwell*, to enquire for the King's Colours, which Capt. *Carr*, late Deputy-Governor at *Delaware* had, and to uſe the ſame in the *Fort*, and for the *Company* whereof Capt. *Cantwell* was Captain in *Newcaſtle*.——*New-York* Records, N° 1. Fol. 70.

Jan. 9. Governor *Andros*'s *Letter*, to Capt. *Cantwell* at *Delaware*, expreſſing his Satisfaction that *Cantwell* had taken poſſeſſion of the *Fort*, and alſo ſettled the Magiſtrates in *Newcaſtle*, and *up the River*, and *at the Whorekill*; gives him Orders about the *Fort*; orders him to give New-comers any reaſonable Quantity of Lands; appoints him *Surveyor for the whole River and Bay*; as to the Execution againſt *Carr*'s Eſtate, my Proclamation ſufficiently confirms *all judicial Proceedings*; gives him Directions about the *Militia*; as to the *Whorekill*, the Number is, *as yet*, too little for a *Company*; but, if it's neceſſary, you may appoint a *Lieutenant*, who may chuſe *Serjeants*, and command *there*; you have done well in ſummoning the *Indians* to demand Juſtice for the Murther of Dr. *Roads*, which pray proſecute, that it may be effected *without War*; but if not, let *me* hear from you, that I may take Order in it and *ſupply you* accordingly.——*New-York* Records, N° 1. Fol. 72.

Feb. 23. Governor *Andros*'s *Letter* from *New-York* to Capt *Cantwell*. I ſhall come into your Parts in *April*, in the mean time you are not to ſuffer Capt. *Carr* to make away his Eſtate, upon which you may lay an Attachment in the King's Behalf. You are alſo to prepare an *Account and State of the Cuſtoms* to *Lady-day* next, to be remitted to his *Royal Highneſs*'s Chief Collector *here*.——*New-York* Records, N° 1. Fol 73.

1675, *Mar.* 27. Governor *Andros*'s *Letter* from *New-York*, directed to Capt. *Edmund Cantwell* Scout of *Newcaſtle* in *Delaware*. About an *Indian* found dead and ſuppoſed to have been murdered, about the *Indians* having formerly murder'd Dr. *Roads*. About another *Indian* killed by an Inhabitant in the River, and Orders that the Magiſtrates enquire into that laſt Murder and do Juſtice immediately in it, altho' it ſhould not be demanded by the *Indians*.——He adds, I hope you have *prohibited* all manner of *diſtilling* of Corn, as well as its *Tranſportation*; if not, I pray that it be done preſently.——*New-York* Records, N° 1. Fol. 74.

Apr. 23. Governor *Andros*'s *Letter* to Capt. *Cantwell*, on receiving an Account from him of the Murder of two Chriſtians on the 8th inſtant about *Milſtone* River.—Tells him the *Neviſans Sachemakers* and about 30 of their People had been juſt-now with him, and concluded a Peace. I have ſent to Governor *Carteret*, to enquire into this Murther, and to give Order for Horſes for our Journey to *Delaware*, to be ready the laſt inſtant. I ſhall come by the way of the *Falls*, where you may meet me *Tueſday* the 4th, or may come on further, towards *Milſtone* River: In the mean time look to yourſelves, and give no Offence or Suſpicion to the *Indians*. As to *James Sandſland* you ought to have a *Court* and *legal Trial* to detain, puniſh or releaſe him, therefore, let that be done, for *that* was my Meaning; as to his being out upon Bail, if he be not criminal it cannot be denied him.—*New-York* Records, N° 1. Fol. 75.

Same Day. *Minutes* of the Governor and Council agreeing to the Matters mentioned in the Governor's above Letter.——*New-York* Records, N° 1. Fol. 75.

Apr. 30. Governor *Andros*'s *Letter* from *New-York*, to Capt. *Cantwell*, on receiving from him an *Expreſs* with the Alarm in his Parts, and Fear there of the *Indians* Intention to do Miſchief; telling him his Information is *wrong*, for Reaſons which he gives him: ſhall ſet out the 3d of *May*, and be at the *Falls* next Day, and hope for the Quiet and Settlement of all thoſe Parts. Thanks him for his Care for the Preſervation of the Inhabitants of the *River*, and giving Notice to prevent Surprizes, and providing againſt all Events; and, if there ſhall be Occaſion, I ſhall not be wanting in *ſupplying you* with all Things neceſſary.——*New-York* Records, N° 1. Fol. 76.

May 13 & 14. An *Order* made, at *a ſpecial Court*, held by the *Governor* at *Newcaſtle* in *Delaware*, in the Caſe of the Inhabitants at *Verdrietys Hook*, in this River, complaining that *William Tom* moleſts them in the Enjoyment of the Meadow-Ground next their Plantations, and *Tom* claiming the ſame by virtue of a Patent from Colonel *Nicolls*, a Compromiſe relating to the Enjoyment of the ſame was propoſed, and ordered.——Records from *Newcaſtle*, N° 11. Fol. 16.

May 15. An *Order* made and ſigned by Governor *Andros* at *Newcaſtle*, and recorded at the laſt-mentioned ſpecial Court, ordering that all *new Lands* be ſurveyed and patented, and *recorded* in the *Court-Books*, of the *ſeveral* Juriſdictions or Precincts; alſo, that all Lands, *formerly* taken up and ſettled, but not ſurveyed, and the Owners have not *Patents*, that ſuch Owners, forthwith, before the next *general Court*, give Notice to the *Surveyor-General* that it be done, and they take out *Patents* to aſſure them their Lands, and prevent future Diſputes, and that it be *recorded*. In order to which, you are to give Notice at your next *Monthly*, or *Quarterly* Courts, in the *ſeveral* Precincts. And this Order is directed thus, "*To the Three ſeveral Courts of* Delaware *River or Bay*."——Records from *Newcaſtle*, N° 11. Fol. 17.

June 23. From the *New-York* Records, *Minutes* of the Governor and Council, upon the receiving Letters from *Delaware* about a Diſturbance of the People *there*, and their Diſobedience to the Magiſtrates, *It is order'd* that ſome Perſon be ſent thither about it, and that, with the Perſon to be ſent to *Delaware*, two Files of *Soldiers*, or ſome *Force*, be ſent *likewiſe*.——*New-York* Record, N° 1. Fol. 76.

July 24. *Minutes* at another Meeting of the Governor and Council, That the former Order of Council of 23 *June*, about the Diſturbance at *Delaware*, be reſpited; and that an *Order*, or *ſpecial Warrant*, be ſent *thither*, for *Jacobus Fabricius* and *John Ogle*, as Ringleaders, to make their Appearance *here* to anſwer the Miſdemeanors objected againſt them touching the late Diſturbance; alſo, the Buſineſs about Capt. *Carr*'s Meadow-Ground at *Newcaſtle* being taken into Conſideration, it is order'd that the Order made at *Delaware*, be obſerved, for the valuing of the ſaid Land, and the Town to have the Refuſal.——*New-York* Records, N° 1. Fol. 77.

July 26. Then immediately follows the *two ſpecial Warrants*, ſigned and ſealed by Governor *Andros* in *New-York*, againſt *Fabricius* and *Ogle* at *Delaware*, reciting that the Governor had received Information from the Magiſtrates at *Delaware*, that they were principal Ringleaders in the tumultuous Diſturbance upon 4th *June* laſt at the Town of *Delaware*, and had diſobeyed the Order ſet forth by the Magiſtrates in a riotous Manner; commanding them, therefore, in the King's Name, forthwith to make their perſonal Appearance before the Governor in *New-York*, to anſwer what ſhall be objected againſt them on that account, as they'll anſwer the contrary at their utmoſt Peril.——*New-York* Records, N° 1. Fol. 77.

July 26. *A Grant* from Governor *Andros*, dated in, and ſealed with the Seal of the Province of *New-York*, recorded *at full length there*, reciting a Patent heretofore granted by the late Governor *Lovelace*, unto *Robert Tallant*, on 26 *Feb.* 1671, for 400 Acres of Land on the *Weſt* ſide of *Delaware* River, and on the South-eaſt ſide of *Apoquimini Creek*, and reciting divers meſne Aſſignments thereof down to *Bezaliel Osborne*; now Governor *Andros*, by virtue of his Commiſſion and Authority from the *Duke* of *York*, ratifys, confirms and grants the ſaid Premiſſes, unto the ſaid *Bezaliel Osborne* in Fee, reſerving as a Quit-Rent to the *Duke*, four Buſhels of Wheat.——This is the *firſt* Grant of Lands which we have, that was made by Governor *Andros*, and it happens to be entred *at full length*, and ſo ſhews the *Form* of his Grants; we have *ſome Hundreds* more of his Grants hereafter, but they are (as to *many* of them) very ſhortly recorded.——This is *New-York* Records, N° 3. Fol. 9.

July 28. A *Letter* dated in *New-York*, ſigned *M. Nicolls*, and there ſaid to be ſent *by the Governor's Order* to Capt. *Cantwell*; as to Capt. *Carr*'s Meadow and Land near the Town, now upon Sale, and in Diſpute betwixt the Town and particular Perſons, the Court is to make a Return thereof to the Governor, whether it was ever incloſed or improved, particularly ſince Capt. *Carr* had it; in the mean time it to remain as it was the laſt ſeven Years of the *Engliſh* Government, before the *Dutch* took the Place in *July* 1673: Upon which Return the Governor will give further Directions. Incloſes the two ſpecial Warrants for *Fabricius* and *Ogle*; the other chief Ringleaders are to be bound over to the next General Court there.——*New-York* Records, N° 1. Fol. 77.

Sept. 15. From *New-York* Records, *Minutes* of the Governor and Council, *Fabritius* being ordered, by ſpecial Warrant, to make his Appearance before the Governor *here*, to anſwer a Complaint made againſt him by the High-Sheriff and Court at *Newcaſtle*, *Ogle* falling ſick appeared not, it's ordered that *Fabritius*, in reſpect of his being guilty, and his former irregular Life, *be ſuſpended from exerciſing his Function as a Miniſter, or preaching any more within this Government, either in publick or private*.——The Orders of the Court at *Newcaſtle*, for making the Dykes, to be confirmed; The Out-People to have like *Commonage* of the Meadow, adjoining to the Dykes they helped to make, as thoſe of the Town.——Captain *Carr*'s Meadow having never been incloſed, nor purchaſed from the *Indians*, It is ordered that the ſaid Lands ſhall be purchaſed of the *Indian* Proprietors *in the Duke's Name*; in the mean time to remain *Common*, as it is.——Ordered that the *Block-houſe* at *Newcaſtle*, be removed, and built on the Back-ſide of the Town, about the middle of it, at or near the Old Block-houſe, wherein there may be a *Court-houſe* and a *Priſon* alſo.——*New-York* Records, N° 1. Fol. 78.

Sept. 23. An *Indenture* between *Edmund Andros* Eſq; Governor and Lieutenant under the Duke of *York*, of all his Territories in *America*, for and on behalf of the Duke, of the one Part, and *Mamarakickan*, *Auricktan*, *Sackoquewan*, and *Nanneckos*, on behalf of themſelves, as the true *Sachems* and lawful *Indian* Proprietors of the Lands aftermentioned, on the other Part. Whereby, in Conſideration of a certain Sum of *Wampum*, and other Goods, mentioned in the Schedule, to them in hand paid, they grant, bargain and ſell to Governor *Andros*, for and on behalf of the Duke of *York*,

All that Tract of Land, on the *Weſt* Side of *Delaware* River, beginning at a Creek next to the Cold Spring, ſomewhat above *Mattinicom* Iſland, about 8 or 9 Miles *below* the Falls, and *as far above* the ſaid Falls as the other is below them, or further that way, as may be agreed on, to ſome remarkable Place for the more certain Bounds; As alſo, all the *Iſlands* in *Delaware* River, within the above-mentioned Limits, both below and above the Falls (except only one Iſland called *Peter Alrick*'s Iſland) together with all Lands, Soils, Meadows, Woods, Marſhes, Rivers, Waters, *&c.* without any Reſervation of the Herbage or Trees, or any thing growing or being thereon.

To hold to Governor *Andros* and his Succeſſors, for and on Behalf and to the Uſe and Behoof of the *Duke* of *York*, his Heirs and Aſſigns for ever. Which Deed is executed before 12 Chriſtian Witneſſes, of which *Edmund Cantwell* is one; and the Schedule enumerates a great Quantity of Goods paid for ſaid Purchaſe.——*New-York* Records, N° 1. Fol. 79.

Oct. 21. Governor *Andros*'s *Letter* from *New-York* to the Governor of *Maryland*, merely about ſome expected Quarrels with the *Indians*, and offering him his *friendly* Aſſiſtance.——*New-York* Records, N° 1. Fol. 81.

Nov. 5. An Entry in the *New-York* Records, that the above-mentioned *Indian* Purchaſe Deed was then *recorded*, as it is at full length.—*New-York* Records, N° 1. Fol. 79.

Nov. 5. 5. 5. *Three ſeveral Grants* from Governor *Andros*.— 1. To *Thomas Spry* of a Parcel of Land called Doctor's Commons, on the *Weſt* Side of *Delaware* River, and on the *South* Side of *St. George's Creek*, containing 160 Acres, together with the Marſhes thereunto, as by the Return of the Survey by Captain *Edmund Cantwell*, Quit-Rent 1 Buſhel and half.——2. To *James Crawford* of a Parcel of Land called *Barwick*, on the *Weſt* Side of *Delaware* Bay, on the *South* Side of *St. George's Creek*, and laid out for 210 Acres together with the Marſhes thereunto, as by the ſame Surveyor's Survey, Quit-Rent 2 Buſhels.——3. To *Bernard Egberts* of a Parcel of Land, called *Smith's Hall*, on the *Weſt* Side of *Delaware* River, on the *South* Side of *St. George's Creek*, containing 300 Acres, as by *Cantwell*'s Survey, Quit-Rent 3 Buſhels.——*New-York* Records, N° 3. Fol. 10.

Same Day. *Same Day.* *Two more Grants* from Governor *Andros*.——1. To *Jacob Young* for a Parcel of Land on the *Weſt* Side of *Delaware* River, on the *North* Side of *St. George's Creek*, containing 1280 Acres, with the Marſhes thereto, as by *Cantwell*'s Survey, Quit-Rent 12 Buſhels and 3 Pecks.——2. To *Hermanus Wiltbank*, of Land near to the *Whorekill* in *Delaware* Bay, lying upon *Fiſh-Creek*, containing 800 Acres, as by *Cantwell*'s Survey, Quit-Rent 8 Buſhels.——*New-York* Records, N° 3. Fol. 11.

Same Day. *Same Day.* *Two more Grants* from Governor *Andros*.——1. To *Henry Ward* of a Neck of Land on *Weſt* Side of *Delaware* River, between the *Beaver Dam* and *Dragon Swamp*, near to St. *George*'s Creek, containing 446 Acres and ½, with the Marſhes thereto, as by *Cantwell*'s Survey, Quit-Rent 4 Buſhels and ½.——2. To *William Roods*, of a Tract of Land *at the Whorekill* on the Weſt Side of *Delaware* Bay, *called Rehobah, lying upon Rehobah Bay*, bounded on one Side by *John Avery*'s Land, containing 600 Acres, as by *Cantwell*'s Survey, Quit-Rent 6 Buſhels.——*New-York* Records, N° 3. Fol. 12.

Note, The firſt of thoſe Grants is alſo at full Length recorded in *Newcaſtle* Records, N° 11. Fol. 18.

This laſt Grant, amongſt many other Proofs, ſhews, the *Whorekills* was the Name of a *Diſtrict*; for *Rehobath* Bay is at leaſt 7 Miles from the Town of *Whorekills* or *Lewis*, and yet is ſaid to be *at the Whorekills*.

Three

1675, *Nov.* 5. Three more Grants from Governor *Andros.*——1. To *Hans Peterſon*, of Land on the *Weſt* Side of *Delaware* River, in *Skillpades-Kill* or Creek extending out of *Chriſtiana*
Same Day. Creek, containing 157 Acres and ½, with the Marſhes thereto, as by *Cantwell*'s Survey, Quit-Rent 1 Buſhel and ½.——2. To *Charles Peterſon*, of Land on the *Weſt* Side of
Same Day. *Delaware* River, on the North Side of *Verdrityes Hook*, containing 266 Acres, with the Meadow or Marſh thereto, as by *Cantwell*'s Survey, Quit-Rent 2 Buſhels and ½.——
3. To *George Moor*, of Land called *Windſor*, on the *Weſt* Side of *Delaware* River, on the South Side of *St. George's Creek*, containing 280 Acres, with the Marſhes thereto,
Quit-Rent 2 Buſhels and ½.——*New-York* Records, N° 3. Fol. 13.

Same Day. *Two more Grants* from Governor *Andros*. 1. To *Anne Wale* of Land, called *Chelſey*, on the *Weſt* Side of *Delaware* River, and on the South Side of *St. George's Creek*, con-
Same Day. taining 300 Acres, with the Marſhes thereto, as by *Cantwell*'s Survey, Quit-Rent 3 Buſhels.—2. To *John Ogle* of Land, on the *Weſt* Side of *Delaware* River, called *Hampton*,
on the North Side of *St. George's Creek*, containing 300 Acres, as by *Cantwell*'s Survey, Quit-Rent 3 Buſhels.——*New-York* Records, N° 3. Fol. 14.

Note, The laſt of theſe Grants is alſo recorded at full Length in *Newcaſtle* Records, N° 11. Fol. 19.

Same Day. *Two more Grants* from Governor *Andros*. 1. To *Morris Liſten*, of Land on the *Weſt* Side of *Delaware* Bay, lying on a Fork of *Cedar Creek*, containing 150 Acres, as by
Same Day. *Cantwell*'s Survey, Quit-Rent 1 Buſhel and ½.——2. To *Peter Bawcom* and *Richard Blinks*, of Land on the *Weſt* Side of *Delaware* Bay, called *Stening*, or *Bawcom Briges*
Creek, containing 600 Acres, together with all Marſhes thereto, as by *Cantwell*'s Survey, Quit-Rent 6 Buſhels.——*New-York* Records, N° 3. Fol. 15.

Dec. 1. *Another Grant* from Governor *Andros*, to *Ephraim* and *Caſpar Harman*, of Land, called *St. Auguſtine*, on the *Weſt* Side of *Delaware* River, being on the North Side of
Apoquemini Creek, and on the South Side of St. *Auguſtine's Creek*, containing 400 Acres, as by *Cantwell*'s Survey, Quit-Rent 4 Buſhels.——*New-York* Records, N° 3. Fol. 16.

Note, The ſame Grant recorded, at full Length, in *Newcaſtle* Records, N° 11. Fol. 20.

Dec. 5. *Minutes* of the Governor and Council taken from *New-York* Records. The Letter from Captain *Edmund Cantwell* being taken into Conſideration, concerning the Arrival of
Mr. *Fenwick* and others at *Delaware*, with their Pretences. *Reſolved*, that Mr. *Fenwick* having no Order, (which if he had, ought to have been brought firſt and recorded
here), he is not to be received as Owner of any Land in *Delaware*, but to be uſed civilly, paying all Duties, as other the King's Subjects in thoſe Parts; and if he, or any that
come with him, deſire Land to the *Weſtward*, that there be aſſigned them fitting Proportions, as to others, and due Return made of the Surveys: As to any Privilege, or Freedom
of Cuſtoms, or Trading on the *Eaſtern Shore*, none to be allowed, in any caſe, to the ſmalleſt Veſſel, Boat, or Perſon. The Magiſtrates and Chief Officers are to be very
careful that there be no Abuſe committed on the *Eaſtern Shore*, under any Pretence whatſoever, contrary to the above: As to *Cuſtoms*, *Newcaſtle* to pay but as *New-York*, two
per Cent. &c. But, above the Town, or any *other* Place on the Bay or *River*, except *Whorekill*, to pay the *Addition* of 3 *per Cent.* as *per* Regulation.——*New-York* Records,
N° 1. Fol. 82.

Note, A Copy thereof, but ſigned *Mat. Nicol's* Secretary, and *expreſly called* Minutes of a Council held *in New-York*, is alſo entered in *Newcaſtle* Records, N° 11. Fol. 21.

Dec. 10. Governor *Andros*'s Letter from *New-York* to the Governor of *Maryland*, touching a War with the *Indians* which the Governor of *Maryland* was engaged in, and wherein the
Suſquehannah Indians were concern'd——*New-York* Records, N° 1. Fol. 83.

Dec. 10. Governor *Andros*'s Letter from *New-York* to Captain *Cantwell*. You are punctually to obſerve the *Order* I here ſend you, concerning Mr. *Fenwick*, and the *Cuſtoms*, as prac-
tiſed here, which I hope will ſatisfy all Perſons; Mr. *Dyre* will ſend you *the Rules* you deſire, for *Entrys*, &c. I am ſorry you find the *Indians* in your Parts wavering, be juſt
to them, I'll ſupply you with what is fit for a *Gariſon* in your Town, at this Juncture, for Security of your Parts; and would have you take Order for removing the *Blockhouſe*,
about the middle of your Town, above it, into the Place I ſhewed you when there, ſo to command *both* Ends.——*New-York* Records, N° 1. Fol. 83.

Decemb. 14. Governor *Andros*'s *Commiſſion* dated at *New York*, authoriſing *Caſper Harman* to fetch and bring in, from out of the Woods, in and about *Delaware Bay*, adjacent to
Apoquemini and *Landwerdin*, within *this* Government, all wild and unmarked *Cattle*, *Hogs* and *Horſes*, not having a known Owner; he bringing the ſame to the Chief
Officer or Magiſtrate at *Apoquemini*, and *paying one third* Part or Value *to his Royal Highneſs's* Uſe, the other two thirds to be his for his Pains and Trouble. This
Commiſſion to be in Force for one Year.——*New York* Records N° 1. Fol. 84.

Dec. 15. Governor *Andros*'s *Grant* dated in, and under the Seal of the Province of *New York*, whereby he grants in Fee to *Peter Bayard*, a parcel of Land called *Bumbey's*
Heek, on the *Weſt* ſide of *Delaware Bay*, on the Mouth of *Duck Creek*, containing 600 Acres, as by *Cantwell*'s Survey, Quit-Rent reſerved to the *Duke* 6 Buſhels.
——This is recorded at full Length in *Newcaſtle* Records N° 11. Fol. 22.

Jan. 12. *A renewed Execution*, under the Hand and Seal of Governor *Andros*, dated at *New York*, recites that Jeuffro *Armegart Prince*, of *Upland* in *Delaware* River, ob-
tained a Judgment at the Aſſiſes held *in the City of* New York in 1672, in the time of Governor *Lovelace*, againſt *Andrew Carr* and *Perſilla* his Wife, Inhabitants in
the ſaid River, for a Sum, for which a ſpecial Warrant of Execution was alſo granted, but the ſame was not fully effected; at her Requeſt that the former Execution
may be *renewed*, the Governor in the King's Name, requires Captain *Cantwell*, Sheriff of *Delaware*, or his Deputy, to proceed according to the ſaid Judgment, in
what remains unexecuted.——*New York* Records N° 1. Fol. 85.

Jan. 15. In the *New York* Records, a *ſhort* Entry of a *Grant* from Governor *Andros* (but without a Date there) unto *Percifell Wooderſell* and 4 others of Land on the *Weſt-*
ward ſide of *Delaware* River, and on the North-Weſt ſide of *Black Bird Creek*, containing 1200 Acres, as by *Cantwell*'s Survey, Quit-Rent 12 Buſhels.——*New York*
Records N° 3. Fol. 47.

Jan. 15. The ſame *Grant* recorded *at full length*, in——*New-Caſtle* Records N° 11. Fol. 23.

Jan. 15. Another *Grant* from Governor *Andros* in *New York*, and under the Seal of that Province, to *James Wallem*, of a Lot of Ground *below the Fort* in the *Town* of *New-*
caſtle, Quit-Rent 1 Buſhel.——*Newcaſtle* Records N° 11. Fol. 24.

Note, Another Entry of the laſt Grant in the *New York* Records N° 3. Fol. 49.

Jan. 15. Another *Grant* from Governor *Andros* in *New York*, and under the Seal of that Province, to *Henry Vanderburch* of another Town-Lot, below the Fort, in the Town
of *Newcaſtle*, Quit-Rent 1 Buſhel,——*Newcaſtle* Records N° 11. Fol. 25.

Jan. 15. Another Grant from Governor *Andros* in *New York*, and under the Seal of that Province, to *John Scott*, of a Tract of Land on the *Weſt* ſide of *Delaware* River, at
the firſt dividing of *St. George's Creek*, called *Maidſtone*, containing 400 Acres, as by *Cantwell*'s Survey, Quit-Rent 4 Buſhels.——*Newcaſtle* Records N° 11. Fol. 26.

Note. Another Entry of the laſt Grant, in *New York* Records N° 3. Fol. 51.

Jan. 15. Another *Grant* from Governor *Andros*, dated at *New York*, and under the Seal of that Province, to *John Edmondſon*, of Land, which had been formerly granted by
Colonel *Nicholls*, the Duke's Governor, upon 1 *Aug.* 1668. to *Thomas Woolaſton* and others, being in *White Clay Kill*, near unto *Chriſtiana Kill* in *Delaware* River,
containing 800 Acres of Wood-Land, beſides Valley, on which former Grant a Quit-Rent of 8 Buſhels was reſerved, which being now by meſne Aſſignment come to
John Edmondſon, Governor *Andros* grants it to him in Fee, reſerving the 8 Buſhels Quit-Rent.——*Newcaſtle* Records N° 11. Fol. 27.

Note. This laſt is quite a new diſtinct, parcel of Land, the *former* Grant of it had never before been *mentioned* in our Evidence.

Jan. 15. Another *Grant* from Governor *Andros*, dated at *New York*, and under the Seal of that Province, unto *Olie Franſon* and two others, of a Tract of Land on the *Weſt-*
ward ſide of *Delaware* River, about two Miles above *Verdrietigys Hook*, containing 700 Acres as by *Cantwell*'s Survey, 300 Acres of which were before granted to
them by Patent of 7 *April* 1673, but the other 400 Acres are new Land, Quit-Rent 7 Buſhels.——*Newcaſtle* Records N° 11. Fol. 28.

Note. An Entry of this laſt Grant is alſo in——*New York* Records N° 3. Fol. 54.

Jan 15. Another *Grant* from Governor *Andros*, dated in *New-York*, and under the Seal of that Province, to *Francis Wittwell*, of a Parcel of Land on the *Weſt* ſide of *De-*
laware River, called *Broobſhey*, on the Weſt ſide of the South-Weſt Branch of *Duck Creek*, containing 400 Acres as by *Cantwell*'s Survey, Quit-Rent 4 Buſhels.——
Kent County Records N° 14. Fol. 3.

Note. Another Entry of the laſt Grant is alſo in——*New York* Records N° 3. Fol. 52.

Jan. 15. Another *Grant* from Governor *Andros* dated in *New-York*, and under the Seal of that Province, to *William Tom* in Fee, of a Tract of Land *upon the Whorekil* in *Delaware Bay*, being formerly the Land of *Peter Alricks*, *near Pagan Creek*, containing 132 Acres, as by *Cantwell*'s Survey, Quit-Rent 1 Buſhel.——*Suſſex* County Records N° 17. Fol. 3.

Note. Another Entry of the laſt Grant is alſo in——*New York* Records N° 3. Fol. 54.

Jan. 15. Another *Grant* from Governor *Andros*, dated in *New York*, and under the Seal of that Province, unto *Simon Patten*, of a Tract of Land *at the Whorekill*, upon the
Weſt ſide of *Delaware Bay*, by *Pagans Creek*, containing 50 Acres, as by *Cantwell*'s Survey, Quit-Rent half a Buſhel.——*Suſſex* County Records N° 17. Fol. 4.

Jan. 15. Another *Grant* from Governor *Andros*, dated in *New York*, and under the Seal of that Province, to *George Young*, of a Tract of Land, *near unto the Whorekill*,
in *Delaware Bay*, called *Young's Hope*, containing 300 Acres, as by *Cantwell*'s Survey, Quit-Rent 3 Buſhels of Wheat.——*Suſſex* County Records N° 17. Fol. 5.

Note. Another Entry of the laſt Grant is in——*New York* Records N° 3. Fol. 53.

Feb. 21. Governor *Andros*'s *Commiſſion* dated in, and under the Seal of, *New York*, appointing 5 of the Juſtices of the Court at *Newcaſtle*, and 5 of the Juſtices of *Upland*
Court, and *Delaware River*, *a Court of Oyer and Terminer*, for Trial of *Sybrant Johnſon* and his Accomplices, for a Rape which had been committed, on *Ann Jurians*,
within the Juriſdiction of the Court at *Newcaſtle*.——*New York* Records N° 1. Fol 86.

Sans Day or Month. An Entry in the *New York* Records of a *Grant* by Governor *Andros*, to *William Davids*, of Land on the *Weſtward* ſide of *Delaware Bay*, called *Roaſeberry*, a little
below the Indian Bridge, containing 300 Acres, as by Survey, Quit-Rent 3 Buſhels.——*New York* Records N° 3. Fol. 8.

1676. *Mar.* 25. From *New-York* Records, *Three ſeveral Grants* from Governor *Andros*.—1. To *Hendrick Coleman* and *Peter Patcon*, of Land, on *Weſt-ſide* of *Delaware* River, and on
North-weſt ſide of *Millcreek*, containing 100 Acres as by Survey, Quit-Rent 1 Buſhel; — 2. To *Jurian Hartſielder*, of Land on the *Weſt* ſide of *Delaware* River, on the South-
weſt ſide of *Cohocktincks Creek*, containing 350 Acres, Quit-Rent three Buſhels and a Half.——3. To *Henry Alliſon*, of Land called *Tilmouth Haven*, on the *Weſt* ſide of *Delaware*
Bay, and on the South-ſide of *Fiſh Creek*, containing 400 Acres as by Survey, Quit-Rent four Buſhels.——*New-York* Records, N° 3. Fol. 17.

Same Day. From *New-York* Records, *Three more Grants* from Governor *Andros*, 1. To *Thomas Williams*, of Land on the *Weſt* ſide of *Delaware* Bay, and on North-weſt ſide of *Baucum*
Briggs Creek, containing 200 Acres as by Survey, Quit-Rent 2 Buſhels.——2. To *Robert Tallent*, of Land called *Poplar-Hill*, on the *Weſt* ſide of *Delaware* Bay, and on North
ſide of *Hangman's Creek*, containing 200 Acres as by Survey, Quit-Rent 2 Buſhels.—3. To *John Street*, of Land called the *Chops*, on the *Weſt* ſide of *Delaware*, and at the Head
of *Hangman's Creek*, containing 200 Acres as by Survey, Quit-Rent 2 Buſhels.——*New-York* Records, N° 3. Fol. 18.

Same Day. From the Records in *Newcaſtle* County. *Twelve ſeveral Grants*, from Governor *Andros*, dated in, and under the Seal of *New-York*, recorded *at full Length*, all granted by
virtue of the Duke's Commiſſion to him, and reſerving the Quit-Rents to the Duke, *viz.* 1. To *Peter Thomaſſon* in Fee, of Lands on the *Weſt* ſide of *Delaware* River, and on
White-clay Creek, being a Branch of *Chriſtiana Creek*, above the Falls thereof, containing 220 Acres, Quit-Rent 2 Buſhels.——2. To *William Sharp* in Fee, of Land called
Canaan, on the *Weſt* ſide of *Delaware* Bay, and on the North ſide of *Duck Creek*, containing 500 Acres as by *Cantwell*'s Survey, Quit-Rent 5 Buſhels.——3. To *Walraven*
Johnſon de Fox and another in Fee, of Land on the *Weſt* ſide of *Delaware* River, near the upper End of *Bread and Cheeſe* Iſland, and on the North ſide of *White-clay Creek*,
containing 570 Acres as by Survey, Quit-Rent 5 Buſhels.——4. To *John Nomers* in Fee, of Land, on the *Weſt* ſide of *Delaware* River, on both ſides of *White-clay Creek*,
being a Branch of *Chriſtiana Creek*, containing 340 Acres as by Survey, Quit-Rent 3 Buſhels and a Peck.——5. To *Edmund Cantwell* in Fee, of Land on the Weſt ſide of
Delaware River, nigh the Head of *Apoquiniminick* Creek, containing 800 Acres, 400 of which was granted to *William Smiler*, and by him forfeited to his Majeſty, by the late
Governor *Lovelace* granted to the ſaid *Cantwell*, and the other 400 laid out for the ſaid *Cantwell*, Quit-Rent reſerved to the Duke 8 Buſhels.——6. To *Caſparus Harman* in
Fee, of Land, called *Good Neighbourhood*, on the *Weſt* ſide of *Delaware* River, and on the North-eaſt ſide of *St. Auguſtine's Creek*, containing 330 Acres, as by Survey, Quit-
Rent 3 Buſhels.——7. To *Edmund Cantwell* in Fee, of Land, on *Weſt* ſide of *Delaware* Bay in *Apoquiniminick Creek*, beginning from the *Green Hook* to *Saſſafrax-Kill*, containing
900 Acres, which had on 17 *June* 1671. been granted by Governor *Lovelace* to *Lucas Abell* and others, and ſince purchaſed by *Cantwell*, Quit-Rent 9 Buſhels.——8. To
John Moll in Fee, of a Lot in *Newcaſtle Town*, Quit-Rent 1 Buſhel.—9. To *Robert Tallent* in Fee, of Land called *Poplar-Hill*, on the *Weſt* ſide of *Delaware* Bay, and on
North ſide of *Hangman's Creek*, containing 200 Acres as by Survey, Quit-Rent 2 Buſhels.—— 10. To *John Street* in Fee, of Land called the *Chops*, on the *Weſt* ſide of *Dela-*
ware Bay, on the Head of *Hangman's Creek*, containing 200 Acres as by Survey, Quit-Rent 2 Buſhels ——11. To *John Barker* in Fee, of Land called *Calton*, on the *Weſt* ſide
of *Delaware* River, and on the North ſide of *Blackbirds Creek*, containing 220 Acres as by Survey, Quit-Rent 2 Buſhels.—And 12. To *Samuel Land* in Fee, of a Lot in the
Town of *Newcaſtle* in *Delaware* River, in *Warmoes Street*, bounded upon the *Minquaes Street*, Quit-Rent 1 Buſhel.——Records from *Newcaſtle* County, N° 11. Foliis 29,
30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40.

Note. As the 12 foregoing Grants are taken only from *Newcaſtle* Records (tho' long before Mr. *Penn* had any thing to do with that Country) ſo it may be neceſſary to
mention, that we have *ſhort Entries* of ſeven of theſe Grants from *New-York* Records alſo, *viz.* The *firſt* of the laſt-mentioned 12 Grants is in *New-York* Records,
N° 3. Fol. 27; and the *ſecond*, in the ſame Book, Fol. 22; the *third* is in the ſame ſame Book, Fol. 31; the *fourth* is in the ſame Book, Fol. 30; the *ſixth* is in the ſame
Book, Fol. 60; the *eleventh* is in the ſame Book, Fol. 61; and the *twelfth* is in the ſame *New-York* Book of Records, N° 3. Fol. 31.

Same Day. From the Records in *Kent* County, *Two more Grants*, from Governor *Andros*, dated in, and under the Seal, of *New York*, recorded *at full Length*, and both granted by
Virtue of the Duke's Commiſſion to him, and reſerving the Quit Rents to the *Duke*, *viz.*——1. To *Thomas Williams* in Fee, of Land on the *Weſt* Side of *Delaware*
Bay, and on North-weſt ſide of *Beaucom Briggs Creek*, containing 200 Acres as by Survey, Quit Rent 2 Buſhels.——2. To *William Simſon*, of Land on the *Weſt* ſide of *De-*
laware Bay, and on the North ſide of *Little-Creek*, containing 400 Acres, as by *Cantwell*'s Survey, Quit-Rent 4 Buſhels.—Records from *Kent* County, N°. 14. Fol. 4 & 5.

Note. The laſt of theſe Grants is alſo entred in——*New-York* Records, N° 3. Fol. 23.

From

March 25. From the Records in *Suſſex* County, *one more Grant*, from Governor *Andros*, dated in, and under the Seal of *New York*, recorded at full Length, granted by Virtue of the *Duke's* Commiſſion to him, unto *Abraham Clement*, and another in Fee, of Land, *upon the* Whorekill, *near* Delaware *Bay*, by *Potters Creek*, and *Pagans Creek*, containing 600 Acres, as by *Cantwell's* Survey. Quit Rent, ſix Buſhels reſerved to the *Duke*.——Records from *Suſſex* County, N° 17. Fol. 6.

May 25. Governor *Andros's Order*, dated *in New York*, being an *Injunction* granted by him, upon *a Petition in Equity* preſented to him; to ſtay Execution, upon a Judgment obtained at Law, in the Courts at *Newcaſtle*, by *William Tom* againſt *Hendrick Janſon*. The Governor orders, that, on *Janſon's* giving Security to make good his Complaint, Execution be ſuſpended, and that all the Proceedings, Writings, and Proofs, be tranſmitted *to* New York, *for a final Determination in Equity*.——*New York* Records, N° 1. Fol. 87.

June 23. *Grant* from Governor *Andros* in *New York*, to *William Stevens*, of Land called *York*, on the *Weſt* Side of *Delaware* Bay, above *Little Creek*, containing 600 Acres, as by *Cantwell's* Survey. Quit Rent, ſix Buſhels.——*New York* Records, N° 3. Fol. 19.

June 24. *Two more Grants* from Governor *Andros*, 1. To *Edward Southeran*, of Land called *St. Giles's*, on the *Weſt* Side of *Delaware* Bay, *Weſt* from the *Whorekill*, about a Mile from *Pagans Creek*, containing 196 Acres, as by Survey. Quit Rent, two Buſhels.——2. To *William Arundel*, of Land on the Weſt Side of *Delaware* Bay, *about three Miles South Weſt from the* Whorekills, *in the Woods*, containing 304 Acres, as by Survey. Quit Rent, three Buſhels.——*New York* Records, N° 3. Fol. 29.

Note, The *firſt* of thoſe two laſt Grants is entered, *at full Length*, in the Records from *Suſſex* County, N° 17. Fol. 7.

June 30. Governor *Andros's Grant* to *Edward Bodell*, of Land on the *Weſt* Side of *Delaware* Bay, *in the Woods*, *South South Eaſt from the* Whorekill, *about three Miles*, near to *Green Branch*, containing 300 Acres of Land, as by Survey. Quit Rent, three Buſhels.—*New York* Records, N° 3. Fol. 29.

July 15. Governor *Andros's Grant* to *John Moll*, for Land called the Exchange, on the *Weſt* Side of *Delaware* River, between it, and the *great Dragon Swamp*, laid out for 1000 Acres, 600 whereof were formerly granted by Patent to *William Currer*, and another, whoſe Right *Moll* is inveſted with, and the other 400 are new Land. Quit Rent, 10 Buſhels.—*New York* Records, N° 1. Fol. 88.

July 26. From *New York* Records, *Minutes* of the Governor and Council, ſigned by Governor *Andros*, on the Petitions of *Laurence Caroli* of *Delaware*, to the Governor, one concerning a *Mare*, the other concerning ſelling *ſtrong Liquors* to the *Indians*, in both which Matters *Caroli* was caſt at the Court of *Newcaſtle*, *and appealed hither for Relief*; *Ordered*, that the Petitions, Proceedings, Judgment of Court, and ſeveral Atteſtations, delivered in *here*, be all tranſmitted to the Court at *Newcaſtle*, who are to return them back, with their Anſwer, to the Governor, and in the mean time, that *Execution be ſtopt*.———Upon the Petition of *Peter Gronendyke* of the *Whorekill*, complaining of Wrong done him by the *Court* at the *Whorekill*, in a Suit between him and *Smith* for ſome Tobacco, where the Petitioner was caſt, and the Preſident of the Court, and ſix of ſeven of the Jury, acknowledged their Proceedings erroneous, and deſired their Verdict might be annulled, and yet the Preſident gave out afterwards *Execution* againſt the Petitioner; it is ordered, on the Petitioner's giving Security, that the Preſident of the Court, ſome of the Jury, and the Proſecutor, ſhall all make their perſonal Appearance at the next General Court of Aſſize, to be held in *this City*, in *October* next, to anſwer in this Behalf.———Another Petition of *Helmanus Wiltbank*, *referred* to the Court at *Whorekill* to take Order in, with all juſt Favour to the Petitioner according to Law, and make Report to the Governor.———*New York* Records, N° 1. Fol. 88.

July 28. *Minutes* of the Governor and Council, from *New York* Records, Reſolution to write to Captain *Cantwell* at *Delaware*, to endeavour to make up a Conteſt which the *Suſquehanno Indians* had *with Maryland*, and to acquaint the Governor of *Maryland* thereof.———Alſo, upon *a Petition* of the Widow of *Hans Block* of *Newcaſtle*, that of late the Commons or Woods have been encloſed by a Fence towards her Land, ſo that ſhe is debarred of the Liberty ſhe many Years heretofore had, of commoning her Cattle, *ordered*, that there ſhall be a convenient Out-drift for her Cattle.—*New York* Records, N° 1. Fol. 89.

Aug. 10. The Governor's *Paſs*, dated in *New York*, for *John Turcoat*, a *Frenchman* belonging to *this* Government, with four or five of his Countrymen, to paſs towards *Delaware* River, or Bay, *and the South Parts thereabouts*, being intended to hunt *that way*, and to return again.—— *New York* Records, N° 1. Fol. 89.

Aug. 11. From the *New York* Records, *Minutes* of Council to check Captain *Cantwell* for raiſing ſo raſh an Alarm there, but nevertheleſs to enquire the Meaning of the *Suſquehannos* coming in.——*New York* Records, N° 1. Fol. 89.

Sept. 15. From the *New York* Records, *Minutes* of Council, on a Complaint made by Captain *Hans Jurienſon*, that Captain *Edmund Cantwell* abuſed and ſtruck him in his own Houſe; upon Examination and Hearing of both Parties, *ordered*, that Captain *Cantwell* ſhall pay 200 Guilders *Fine* to the King, and both Parties to lay by all Animoſities for the future, but it does not clearly expreſs *where* this Aſſault was.———*New York* Records, N° 1. Fol. 90.

Same Day. A *Grant* from Governor *Andros* to *Walter Dickinſon*, of two Parcels of Land, each of 400 Acres, on the Weſt Side of *Delaware* Bay, and on the North Eaſt Side of *St. Jones* Creek, being about a Mile from *Murder Creek*, or above *Murder Creek*. Quit Rent, eight Buſhels.—*New York* Records, N° 1. Fol. 90.

Sept. 23. Three ſeveral *Commiſſions*, granted by Governor *Andros*, all dated in *New York*.——1. To Captain *John Collier*, to be *Sub-collector* of all *his Majeſty's Cuſtoms* of *Newcaſtle* in
23. *Delaware*, and *Receiver of the Quit Rents, or other his Royal Highneſs's Revenue there, together with the River and Bay*, wherein he is to act purſuant to Law, and his *Royal*
23. *Highneſs's* Orders for *this* Government, and to obſerve ſuch Directions as ſhall be received from Governor *Andros*.——2. In his Majeſty's Name appointing ſix Perſons to be *Juſtices* of the Peace in the Juriſdiction of *Delaware* River, and *Dependencies*, any three of them to be a *Court of Judicature*, for one Year.—3. And in his Majeſty's Name appointing ſix Perſons to be *Juſtices* of Peace in the Juriſdiction of *Newcaſtle*, and *Dependencies*, any three of them to be *a Court of Judicature*, for one Year.———*New York* Records, N° 1. Fol. 91.

Same Day. *Two* more *Commiſſions* from Governor *Andros*, dated in *New York*.——1. Whereby he, in Virtue of the *Duke's* Authority, appoints *Ephraim Hermans* to be *Clerk of the*
Same Day. *Court of* Newcaſtle in *Delaware*, *and alſo* of the Court of *Upland* in the River.——2. He alſo, in Virtue of the *Duke's* Authority, appoints Captain *John Collier* to be *Commander* in *Delaware River and Bay*, to take Care that the *Militia*, *in the ſeveral Places*, be well armed, duly exerciſed, and kept in good Diſcipline, and the Officers and Soldiers are required to obey you as their *Commander*, and you are to obſerve ſuch Orders as you ſhall receive from *me*, according to the Rules and Diſcipline of *War*.——*New York* Records, N° 1. Fol. 92.

Note, This laſt Commiſſion to Captain *Collier* is recorded in —— Records from *Newcaſtle* County, N° 11. Fol. 41. And the former to *Hermans* is recorded in —— *Newcaſtle* Records, N° 11. Fol. 42.

Same Day. Governor *Andros's Inſtructions* to Captain *John Collier*, dated in *New York*, to go to *Maryland*, either from the *Whorekill*, or from *Delaware*, about making up a Difference which *Maryland* had with the *Suſquehannah Indians*; then to return to *Newcaſtle*. Inſtruction 4. To prevent all *Interlopers*, or irregular *Traders*, contrary to Law, and the Privileges, and Inhabitants of *this* City and *Newcaſtle*. Inſtruction 5. To keep due Accounts of all Things belonging to the *Cuſtoms*, as alſo of all *other* publick *Revenues* in the *River and Bay*, and return an Account thereof every three Months.———*New York* Records, N° 1. Fol. 92.

Sept. 25. Governor *Andros's Letter* to the Deputy Governor of *Maryland*, adviſing him to a Friendſhip with the *Suſquehanno Indians*.—— *New York* Records, N° 1. Fol. 93.

Same Day. Governor *Andros's ſpecial Warrant* againſt Major *Fenwick*, dated in *New York*, but directed to Captain *Edmund Cantwell*, Sheriff of *Delaware*, to execute; recites, that Major *John Fenwick*, now living at the *Eaſt* Side of *Delaware* River, pretends to be Proprietor of that Side, [*viz.* in *New Jerſey*] and has acted accordingly, granting Lands, diſpoſſeſſing Perſons, ſelling their Lands, arrogating Power of Judicature, and giving out Licences for diſtilling, contrary to the Order ſettled in the River, whereby he has inveigled ſome Perſons from *other* Parts, and diſtracts the Minds of the Inhabitants throughout the *whole* River and Bay, not having any lawful Power or Authority; you are therefore to repair *over the River* to the ſaid *Fenwick*, and all other Places *on that Side*, to inform yourſelf of the Truth of the ſaid Particulars, and to forewarn any ſuch of the Danger and Premunire they incur; and, if *Fenwick* has ſo acted, you are to ſummon him, in his Majeſty's Name, to appear, without Delay, to anſwer the ſame before *me*, and my Council, *in this Place*, at his utmoſt Peril; and, in caſe of Oppoſition, all his Majeſty's Subjects are required to aid and aſſiſt you.—*New York* Records, N° 1. Fol. 93.

Sept. 25. Governor *Andros's Inſtructions* given to the Juſtices at *Newcaſtle*, dated in *New-York*; They recite that, laſt Year, upon his being at *Delaware*, the Inhabitants repreſented that his Predeceſſor Governor *Lovelace began* to make a *Regulation* for the due *Adminiſtration of Juſtice*, according to the Laws of *this* Government; purſuant whereto the preſent Governor appointed ſome Magiſtrates, and made ſome Rules for their Proceeding the Year enſuing, or till further Order; now, by the Advice of his Council, he makes ſome Alteration, and they are to remain and be in Force in Form following. 1. That the *Book of Laws*, eſtabliſhed by *the Duke*, and practiſed in *New-York*, and *Dependencys*, be in Force and Practice in this River and Precincts; except the *Militia*, now ordered to remain in the King, and except ſuch as don't relate to that River, *&c.* 2. That there be *three Courts* held, in the *ſeveral* Parts of the River, *as formerly*, viz. One in *Newcaſtle*, one above, at *Uplands*, and another *below* at the *Whorekills*. 3. The *Courts* to conſiſt of the Juſtices, three to be a *Quorum*, and to have Power of a *Court of* Seſſions, and decide all Matters under 20*l. without Appeal*; *above* 20*l.* and for *Crime*, extending to Life, Limb or Baniſhment, to admit Appeal to the *Court of Aſſizes*. 4. All ſmall Matters, under 5*l.* may be determined by the *Court*, without a Jury, as alſo *all Matters of Equity*. 5. The Court for *Newcaſtle* to be held Monthly, thoſe for *Uplands* and the *Whorekill* Quarterly, and he names the fixed Days they are to be held on. 6. The Courts may make By-Laws, not repugnant to the Laws of the Governmeat, to be good for a Year, they giving an Account thereof to the Governor by firſt Opportunity. 7. The Courts to regulate the Court and Officers *Fees*, but not to exceed the Rates in the *Book of Laws*. 8. To be a High-Sheriff for the Town of *Newcaſtle*, *River and Bay*, and he to make an Underſheriff, to be approved by the Court, and the Sheriff is to act in the *Execution* of the Laws, but not as a Juſtice of Peace or Magiſtrate. 9. That there be fitting *Books* provided for the *Records*, all *judicial Proceedings* to be fairly entered therein, *as alſo publick Orders from the Governors*. 10. That *each Court* recommend to the Governor, for his Approbation, a fit Perſon for *Clerk*, in whoſe hands the *Records* are to be kept. 11. That all *Writs*, *Warrants*, and *Proceedings at Law*, ſhall be in the *King's Name*, it having been practiſed in the Government ever ſince the firſt Writing of the Law-Book, *and it being the Duke's ſpecial Pleaſure and Order*. 12. No *Rates* to be impoſed, or *Levies* made, within the Town of *Newcaſtle*, *River or Bay*, without the Governor's Approbation, and all Accounts of Receipts and Diſburſements on Rates, to be ſent to the Governor for *his* Allowance, until which, not to be a ſufficient Diſcharge; Any Perſon deſiring *Land* may apply to the *Court*, in whoſe Bounds it is, who are to ſit Monthly, or oftner, which Certificate *ſhall be a ſufficient Warrant to the Surveyor to ſurvey it*, and the Certificate and Surveyor's Return to be ſent to *New-York*, for the Governor's Approbation.—— *Newcaſtle* Records, N° 11. Fol. 42.

Note, The above is called *Inſtructions*, but is, in effect, ſomething like a *Charter*.

Sept. 27. The Governor's *Dedimus*, dated in *New-York*, authoriſing Captain *John Collier* and Captain *Edmund Cantwell*, to give the Oaths to the new Magiſtrates at *Newcaſtle*, and up the River at *Delaware*, *and alſo at the Whorekill*.——*Newcaſtle* Records, N° 11. Fol. 42.

Oct. 10. An *Entry* in *Newcaſtle* Records that this Day the new Juſtices, and Clerk, were ſworn and eſtabliſh'd in their Places by Captains *Collier* and *Cantwell*, and the ſeveral new Commiſſions granted by the Governor to Captain *Collier*, as alſo to the Juſtices, *with their Inſtructions*, and the Commiſſion to the Clerk being openly read, it was ordered that the ſame ſhould be recorded; and accordingly they all immediately follow that Entry.——*Newcaſtle* Records, N° 11. Fol. 42.

Oct. 26. *Two ſeveral Commiſſions*, under Governor *Andros's* Hand and Seal, dated in *New-York*. 1. In his Majeſty's Name appointing five Perſons, *viz. Helmanus Wiltbank*, *Edward Southerne*, *Alexander Moleſtein*, *John King*, and *Paul Maſh*, *Juſtices of* the Peace at the *Whorekill and Dependencys*, and any three to be a Court of *Judicature*. To continue one Year, or till further Order.——2. By vertue of the King's Letters Patent, and the Commiſſion to the Governor given by the *Duke*, The Governor appoints *John Avery* to be *Captain* of the Foot Company of the *Militia* at the *Whorekill*; with a ſhort Entry that the like [Commiſſions] were given to a Lieutenant, and to *John Roads* Enſign.——*New-York* Records, N° 1. Fol. 94.

Nov. 8. The whole Bench of *Juſtices* at *Newcaſtle* wrote a *Letter* to the Governor, praying him to ſend them (as he had promiſed) the *Duke's Law-Book*, corrected of all ſuch Laws and Orders as did not concern that River; complaining that ſome of thoſe who belonged to the Company of *Militia* of *that* Town lived three or four Miles diſtant, and it was inconvenient to them to do *Watch* in the *Fort*; and as this is a Frontier Place, it will be to the Eaſe of the People, and Reputation of the Province, to have a ſmall Number of *Soldiers* kept, as in the time of the Governor's Predeceſſors, or ſeveral would rather incline to *pay* them than watch themſelves: They pray the Governor to give them a *leſſer Seal* for the Office: They have no *Priſon*, deſire the Governor's Order to erect one, and to appoint what Allowance Priſoners ſhall have, and by whom to be paid; The laſt Court made an Order to allow 40 Guilders for every *Wolf's-Head*, to be levied from the *Publick*, they deſire the *Governor's Approbation* thereof. They deſire the *Governor's Order* to impower them to *raiſe a Levy* for defraying of ſmall *publick Charges*; They deſire the Governor's Order, that *Fines* impoſed by the Court may henceforth, be converted for the *publick Charges*, in repairing the Fort, building a Priſon, *&c.* Chiefly, they tell the Governor, that in caſe *Sloops* and *Veſſels* be, henceforth, permitted to *go up and down the River*, trading with the People, and getting all the ready and beſt Pay, as they *now do*, this Place will, in ſhort time, be deſerted and come to nothing, *which, then, will make this River as bad as* Maryland; wherefore, they entreat *the Governor to prohibit the going up of all Veſſels*, as it was in his Predeceſſors time; and that *this* may be the *only* Place of Lading, Unloading, and keeping of Stores for *all* Merchants; and pray the Governor to order a publick *Weigh-houſe* and *Store-houſe* to be erected.——*Newcaſtle* Records, N° 11. Fol. 44.

Nov. 20. From the *New-York* Records, *Minutes* of the Governor and Council; ſeveral Letters about Major *John Fenwick's* Actings in *New-Jerſey*, on the Eaſt-ſide of *Delaware* River, by his granting Patents, refuſing to obey the Governor's ſpecial Warrant, *&c.* being read; and it importing the King's Service and the Good and Quiet of the Inhabitants of thoſe Parts, *Reſolved* that he be ſent for, and, if there be occaſion, that the Commander and Magiſtrates at *Delaware* do uſe Force for ſeizing and ſending him hither; and as to one *Jaquet*, who has been diſpoſſeſt of Land on the Eaſt-ſide of *Delaware* River by Major *Fenwick*, that the Court do repoſſeſs him thereof and if need be the Commander to aſſiſt them.——*New-York* Records N° 1. Fol. 95.

Nov. 23. Governor *Andros's Letter* dated from *New-York*, and directed for the Commander and Court at *Newcaſtle*, in anſwer to theirs of the 8th Inſtant before ſtated, wherein he, having taken the Advice of his Council, ſends them Orders to ſeize Major *Fenwick*, and to repoſſeſs *Jaquet* as above, and then anſwers their own Deſires, by telling them he *will* ſend them one of the *Duke's* Law-Books, that the Inhabitants of the *Town* of *Newcaſtle*, and within *a Mile* thereof, are to keep *Watch*, but none to be obliged to come to it *further*: The Propoſal about *Soldiers* to be further conſidered; Care will be taken for a *publick Seal* againſt next Year; You may cauſe a *Priſon* to be built in the Fort; For Allowance to *Priſoners*, you are to be directed by the Law-Book; I confirm the Order about killing *Wolves*, for the preſent Year; I grant the *Fines* to the Court, for this Year, and

and the two paſt Years, for publick Uſes, and the Sheriff and Receiver is to pay the ſame, and the Court is to ſend the Governor an Account how they are diſpoſed of; The Sheriff is to have 5 *s.* in the Pound for collecting the ſame and other Charges; towards the further defraying of publick Charges, in the Town of *Newcaſtle*, as alſo up the River, and *in the Bay, a Levy allowed to be made of a Penny in the Pound upon every Man's Eſtate*, to be taxed by indifferent Perſons to be appointed by the *Court*, but an Account to be *given hither to the Governor*; The former Orders to be duely obſerved, as heretofore, and care to be taken that no Veſſels go up the River above *Newcaſtle* to trade; a Weigh-houſe is allowed in the Town of *Newcaſtle*, for the which you are, then, to appoint an Officer, to be ſworn thereto.—— *Newcaſtle* Records N° 11. Fol. 46.

1676. *Dec.* 8. From *Newcaſtle* Records, The *Orders of the Court* at *Newcaſtle*, conſiſting of the Commander and Juſtices; The Commander informing them that he had ſent to and been with Major *Fenwick*, over at his own Houſe, who refuſed to obey the Govenor's ſpecial Warrant, and ſtood upon his Defence, ſaying, the Governor of *New York* had nothing to do with *him*, and he would obey nothing, but what ſhould come from the *King*, or the *Duke*, and threatned any one to take him; the Court comes to a Reſolution that *Force* be uſed, and that *Fenwick* be taken, and ſent to *York* to the Governor.——*Newcaſtle* Records N° 11. Fol. 48.

Same Day. And accordingly by a *Warrant* of the ſame Day, dated at *Newcaſtle* in *Delaware*, and ſigned by Captain *Collier* and the Juſtices, as the Commander, and Court at *Newcaſtle* in *Delaware*, they appoint 3 Perſons, of which one was the Under-Sheriff, to levy 12 *Soldiers* out of any the *Militia* of this River, and repair to *Fenwick*'s Houſe, and to bring him *by Force* before us to this Town of *Newcaſtle*, and to pull down, break, burn or deſtroy the Houſe for the apprehending of him; and in caſe of Reſiſtance to fire upon him, or his, and if *Fenwick* or others reſiſting ſhall be killed, you are hereby diſcharged and held innocent, as being done in purſuance of the *Duke*'s Lieutenant's Orders, and of us, by the Governor's Order recommended.——*Newcaſtle* Records N° 11. Fol. 49.

Decemb. 16. From the *New York* Records. Governor *Andros*'s *Warrant*, ſigned in *New York*, directed to the Sheriff of *New York*, commanding to take into his Cuſtody, and ſafely keep, in order to a legal Trial, *John Fenwick*, ſent a Priſoner hither from *Delaware*, for preſuming to act as a Proprietor and Supreme Magiſtrate, without any, and even refractory to, lawful Authority.——*New York* Records N° 1. Fol. 93.

Jan. 2. *At a Court* held at *Newcaſtle* before the Commander and Juſtices, Four ſeveral Families petitioned for Warrants, to take up 250 Acres of Land for each Family, their Petitions are granted, provided they ſettle according to the Governor's Orders, and the there following *Warrants* were given to each of the ſaid Perſons, directed to Captain *Cantwell* the Surveyor, to ſurvey, for each Family 250 Acres on the Weſt ſide of *Delaware River* or *Bay*, within the Limits of that Court, and to make Returns of the ſaid Surveys to the Court, for to be ſent to *New York*, in order that Patents may be had.—*Newcaſtle* Records N° 11. Fol. 50.

Feb. 8. *The Court* at *Newcaſtle* write a *Letter* to Governor *Andros* at *New York*, making Requeſt of many further *Powers*; They tell him, Order *is* given for erecting a Weigh-houſe and Priſon; as to the Watching, by thoſe who live within a Mile of the Town, they ſay that ſome of thoſe at *Swanwike* will fall within the Mile, and muſt come, when their next door Neighbours, without the Mile, will be excuſed, which will breed Diſcontent, therefore deſire the Governor's further Order therein; As to the *Levy of the Penny per Pound* which your Honour allowed, the People live ſo diſtant, and their Eſtates ſo inconſiderable, that we can find no way to diſcover the Value, or if diſcovered, to make it valuable to receive; but if your Honour would allow of a *Poll-Levy*, as in *Virginia* and *Maryland*, it will be eaſier made and received. Pray remember our former Petitions about *Soldiers*, the *Law-Book* and *Seal*; we ſend you a Copy of the *Fines*; we deſire *your Order* and Approbation about the following Particulars. 1. That you will impower the Commander Captain *Collier*, or the Court, to *prove Wills*, and *grant Letters of Adminiſtration, with the Fees*, for the Eſtates of moſt People in theſe Parts are ſo inconſiderable, that the Charge and Expence *of going to your Honour at* New York *to obtain the ſame*, is much to their Hindrance. Pray the Governor either to appoint a Vendu Maſter *in the River*, or elſe to impower the Court to do it; and that the *Valley* above the Town, which was late Captain *John Carr*'s, and was given by the Governor to the Town for a Common, may be a ſtinted Common; that an Order may be ſet forth in the River and Bay, forbidding all Perſons to lend Veſſels to any Stranger to go over to the *Eaſt* ſide of this River, or Servants, without a Ticket from the Magiſtrates, under a Penalty; for if this Order be not made, you'll pleaſe to conſider that when the Alteration of Government cometh on the other ſide, [Note, the Duke of *York* had, before this time, granted *New Jerſey*, which was on the other ſide, to the Lords Proprietors] we ſhall not be able to keep any Servants on this ſide; and laſtly to admit of a *General Court*, or Meeting, of *all* the Juſtices, as heretofore, if but for making up the Levies, collecting of general Revenues, and other publick and general Affairs; we are ready to obey your Honour's *Orders*, and to uſe all Endeavours for the Advancement of the People over whom your Honour has put us, and are your moſt humble *Subjects* and Servants.———— *Newcaſtle* Records N° 11. Fol. 51.

1676. } *Sans Day or*
1676. } *Month.* From the *New York* Records *Two Grants* from Governor *Andros*, 1. To *John Woodhus*, of Land called *Would have more*, on *Weſt* ſide of *Delaware Bay*, and on North ſide of *Duck Creek* in the middle Branch of the ſaid Creek, containing 400 Acres as by Survey, Quit-Rent 4 Buſhels.——2. To *Morris Leſter* of Land on Weſt ſide of *Delaware Bay*, and on the North ſide of *Duck Creek* in the middle Branch of ſaid Creek, next to *Woodhus*'s, containing 400 Acres, Quit-Rent four Buſhels.——*New York* Records N° 3. Fol. 47.

1677. *Apr.* 6. From the *New York* Records, *Minutes* of Council in theſe ſhort Words only, Three Months Liberty given to *any* Sloop or Veſſel to go up the River above *Newcaſtle*, to fetch *old Debts*.——*New York* Records N° 1. Fol. 96.

Same Day. Governor *Andros*'s Letter or *Orders*, ſigned by him at *New York*, and counterſigned by *Matthias Nicolls* Secretary, in Anſwer to the Propoſals from the Court at *Newcaſtle* of the 8th of *February* laſt; None to *watch or ward* in the Town or Fort but ſuch as live in or near the Town, unleſs on Alarms or extraordinary Occaſions; *Levys* to be laid by the *Poll* as uſually; a Law-book ſhall be ſent; the paſt and next Years *Fines* granted for publick Charges, ſo to leſſen the Rate; the ſeveral Courts may, at a Seſſions, take Proofs and Security, and grant Adminiſtration of Wills, but, if above 20 *l.* to remit the ſame *here* to the Secretary's Office to be recorded: The Court to recommend one for *Vendu Maſter*. The Fees to be 6 *per Cent.* beſides the Cryer, and no other Charges; the Commons to be regulated by the Court, till further Order; *all Perſons* in *Delaware River*, or *Bay*, leaving the Government, to ſet up their Names, where they live, and in *Newcaſtle*, and in *this City*, according to Cuſtom, in Default thereof, any aſſiſting their Departure, to be liable to the Penalty; Liberty is granted for the Sloops, *&c.* going up the River, as formerly, for this Year's Effects, or former Debts; *five Guns*, 30 *Hoes, and one Anchor of Rum, the Remainder of the Pay for the Land at the Falls, to be forthwith paid the* Indians; the Remaining Part of the Land, betwixt the old and new Purchaſe, as alſo the Iſland called *Peter Alricks*, or ſo much as is not already purchaſed, and the *Indians* will part with, to be bought of them; for which Captain *Iſrael Helm* is to enquire for the Owners, and if they'll be reaſonable to bring them to the Commander and Court at *Newcaſtle* for concluding a Bargain thereof.——*Newcaſtle* Records N° 11. Fol. 53.

May 1. From *New York* Records, *Minutes* of Council, on a Letter from *Newcaſtle* about Mrs. *Block*'s being debarred of her Out-driſt for Cattle, *Reſolved* a convenient Out-drift to be allowed according to Law, as by former Order of Council.——*New York* Records N° 1. Fol. 96.

June 8. From *Newcaſtle* Records, at a *Meeting* of the Commander and Juſtices there, they read in Court the Governor's Anſwer dated the 6th of *April*, and entred the ſame, and having deliberated thereon, *writ an Anſwer thereto* to the Governor; As to Watch and Ward, they ſay none live near the Town but at *Swanwike*, and if they are exempted, moſt Part of the Town will fly thither; therefore intreat the Governor to furniſh them with a ſmall Number of *Soldiers* to watch the *Fort*; As the Governor has admitted of a Levy by the Poll, we find that cannot be laid without a *General Meeting*, or *High Court*, of *all* the Juſtices once a Year, we deſire therefore, as we did before, that the Governor will take it into Conſideration, and that ſuch Meeting or *General Court* may begin in *September* next; For *Treaſurer* we appoint *John Moll*, and deſire the Governor to nominate the Treaſurer's Fees; Pray don't forget the *Lawbook*, there is great Occaſion for the ſame; we thank the Governor for the gracious Act of granting the *Fines* for leſſening the Levy, but it will be difficult to collect, unleſs the Governor ſends Soldiers to aſſiſt the Sheriff in the Execution thereof; As to *Letters of Adminiſtration* we'll follow the Governor's Inſtructions. We nominate *Ephraim Herman* for *Vendu Maſter*, but it would be convenient to raiſe the Sallary to above 6 *per Cent.* As to Perſons departing without a *Paſs*, we ſhall endeavour to obſerve the Governor's Order; as to the Liberty for Sloops to go up the River, to receive former Debts, we ſuppoſe they will never be without *that* Pretence.——*Newcaſtle* Records N° 11. Fol. 54.

June 23. From *New York* Records, *An Order* ſigned by the Governor at *New York*, that *Weights, &c.* ſhould be according to *former* Cuſtom and Practice, unleſs otherwiſe determined by Law publiſhed.—— *New York* Records N° 1. Fol. 96.

July 6. An *Entry* in the *New York* Records, that, *upon an Order of Court at the* Whorekill, in the Caſe of *William Hamilton*, concerning *Weights*, referred to the Governor, the there following, (but here foregoing) Order was made.——*New York* Records N° 1. Fol. 96.

July 27. From *New York* Records ſeveral *Judicial Acts* of the Council, Mrs. *Block* claims a Way for Out-drift of her Cattle, through a Piece of Ground near *Newcaſtle* in *Delaware*, now in Tenure of *Cantwell* and *de Haes*, for which he alledges Cuſtom for above 10 Years; *Hayes* anſwers, whilſt it lay unimproved an Out-drift was ſuffered, but it now being in Fence, deſires to enjoy the Benefit of his Grant; and Mrs. *Block* having nothing to produce to ſhew her Right, *Ordered* that the Caſe be referred to be heard and determined at the next Court at *Newcaſtle*, *reſerving Liberty of Appeal according to Law*;——Alſo in the Caſe between *Walter Wharton* and *Edmund Cantwell*, *Ordered* that *Wharton* give Security to make good his Allegation, and *Cantwell* to anſwer his Proceedings and produce his Authority.——*New York* Records N° 1. Fol. 96.

July 28. The Governor's *Order* ſigned in *New York*, upon Requeſt of *Hans Peterſon*, concerning *ſeveral Judgments* of the Courts of *Newcaſtle* and *Upland* in *Delaware*, in a Caſe between *Peterſon* and *Carolus* about a *Mare*, the Jurys brought in *ſeveral Verdicts*, and the Court gave *different Judgments*, and it not appearing by any Teſtimony *what Mare* was in Difference, I *order* that the *Executions* in the ſaid Matter be *ſuſpended*, and a full Account of all ſaid Proceeding, in both Courts, be ſent to me; and this Order is accordingly directed to the Courts of *Newcaſtle* and *Upland*, and all Officers in *Delaware* whom it may concern.——*New York* Records N° 1. Fol. 96.

July 28. Governor *Andros* from *New York*, writes a *Letter* to Captain *John Collier* Commander at *Delaware*, that he finds the Commander goes to, and ſits as Judge in *Courts*; orders him to forbear doing ſo, to act according to his *known* Authority, and in no Caſe to go to Court.——*New York* Records N° 1. Fol. 96.

Aug. 13. From *New York* Records *four ſeveral Warrants* ſigned by the Governor there, by Vertue of Authority derived to him under the *Duke*, appointing 1. Captain *Chriſtopher Billop* to be *Sub-Collector* of the *Cuſtoms* of *Delaware River*, to obſerve the Acts of Trade, make Seiſures, *&c.* and to obſerve ſuch Orders as he ſhall receive from the Chief Collector, or principal Officers of the Cuſtoms *here*, and Superiors. *Newcaſtle* to be the *only* Port for all Entries and Clearings.——2. *Ephraim Herman* to be *Clerk* of the *Permits*, *Entrys*, and *Clearings* for all Duties of *Cuſtoms* in *Delaware River*, and to receive the King's or *Duke*'s thirds of any Forfeitures.———3. Requiring all Perſons that have, or claim any *Land in Delaware River and Bay*, without Delay to make a due Return to the Clerk of the *Court* in whoſe Juriſdiction it lies, and the ſaid Courts to make a Return of the whole to the Governor, that thoſe wanting Grants or Patents, may have them diſpatched and ſent; this to be publiſhed in the ſeveral *Courts*, which are to take care therein, and the *Surveyor* alſo to take Notice and ſee it be obſerved.———4. Appointing *Ephraim Herman Receiver of the Quit-Rents* in *Delaware River*, in the Juriſdiction of *Newcaſtle*, and *Upland* Courts, and to keep exact Accounts, to be ſent *here* by the 1ſt of *May*, made up to 25 *March* before.——*New York* Records N° 1. Fol. 97.

Aug. 13. Three of the above Warrants and Orders, *viz.* for *Herman* to be Clerk of the Permits, for *Herman* to be Receiver of the Quit Rents, and for Perſons to come in for Patents for their Lands, are alſo entred in.——Records from *Newcaſtle* N° 11. Fol. 56.

Aug. 14. } *Two more Warrants for Commiſſions* from the Governor of *New York*, by the firſt he appoints a new Commander, *viz.* Captain *Chriſtopher Billop* to be *Commander* in *Delaware River* and *Bay*, to take care that the Militia, in the ſeveral Places, be well armed, duely excerciſed and kept in good Diſcipline.——By the 2d he appoints *Walter Wharton* to be *Surveyor of Lands* in *Delaware Bay and River*, and appoints what *Fees* he ſhall take.——*New York* Records N° 1. Fol. 98.

Aug. 14. The Commiſſion to Captain *Billop* to be Commander is alſo in——*Newcaſtle* Records N° 11. Fol. 55.

Aug. 14. } And the Commiſſion to *Wharton* to be Surveyor is in——*Newcaſtle* Records N° 11. Fol. 60. and——*Kent* Records N° 14. Fol. 6.

Aug. 14. } Another *Order* from the Governor dated in *New York*, upon a Complaint which had been made to him, not to hinder the Owners of a Mill, ſtanding on a Creek, in *Chriſtiana Kill*, in *Delaware River*, but that they ſhall have free Liberty, *to cut Wood* for Reparation of ſaid Kill, upon any Land, not in Fence, according to Law.———*New York* Records N° 1. Fol. 98.

Same Day. Governor *Andros* writes a *Letter* to the Juſtices of the Court at *Newcaſtle*, acquainting them of the Change of the Commander, and the other Officers which he the Governor had appointed, and will fill up their Court at the uſual Time next Month, and then ſend them the Law-Book. As to penal Bonds, or ſuch like Caſes of Equity, *you may judge* thereof according to Equity; finds no need of a *General or High Court* in the River; directs them to take Care and fitting Orders for *Ordinarys*, that they be fit Perſons, and duely *licenſed*, and that none elſe be admitted to retail,——*New York* Records N° 1. Fol. 98.

Same Day. That Letter, as entred alſo in——*Newcaſtle* Records N° 11. Fol. 57.

Sept. 4. A Court held, before the Juſtices in the Court of *Newcaſtle*, when they read the ſeveral Commiſſions and Orders from the Governor of the 13th and 14th paſt, and entred them; and as to his Order, that Perſons ſhould come in for their Patents, they call it a *Standing Order*, and make an Entry that it was publiſhed in Court, and that a true Copy thereof, in *Engliſh* and *Dutch*, was fixed up at the Fort Gate in *Newcaſtle*.———*Newcaſtle* Records N° 11. Fol. 55, 56.

Sept. 5. From the *Newcaſtle* Records, an *Order* made upon the Petition of *John Edmunds* to have a Patent for 800 Acres of Land, formerly granted him in 1673, but not ſettled in time, by Reaſon of the *Dutch* coming in, but he afterwards ſet down upon them again, with Captain *Cantwell*'s Leave, and has ever ſince been in Poſſeſſion, but ſome other Perſons afterwards ſurreptitiouſly got a Grant of it, who are ſince dead, without Heirs, and therefore prays a Re-ſurvey. The Court orders a Re-ſurvey, and that the Petitioner do apply to the Governor to obtain a Patent, and to deſire that the former Patent may be diſannulled upon Record.——Alſo the Court, according to the Governor's Order, appoint *Ephraim-Herman Vendu Maſter*, and to receive the Fees by the Governor allowed.—Alſo the Court appointed *Walter Rowles*

Conſtable

Conſtable for one Year; *his Limits or Bounds* to be from the South ſide of *St. George's Creek*, to *Boompties Hook*, including *Apoquemenen*, *Blackbird Creek*, and all between the ſaid *St. George*'s and *Boompties Hook* aforeſaid.——*Newcaſtle* Records N° 11. Fol. 58.

1677. *Sept.* 6. *John Moll* (who appears at Fol. 55. to be the firſt named of the Juſtices) ſigns a Warrant to *Walter Rowles*, Conſtable of *Apoquenemen*, to take a Liſt of all the Tydables within *his* Bounds, and to bring it to the next Court to be held in *Newcaſtle*.——*Newcaſtle* Records N° 11. Fol. 58.

Sept. 23. } *Two more Commiſſions* from Governor *Andros* both dated in *New York*; the firſt appointing ſeven Perſons *Juſtices of the Peace* for the Juriſdiction of *Newcaſtle* and
23. } Dependencys, and three or more of 'em to be a Court of Judicature, for one Year, or till further Order; and the ſecond authoriſing Captain *Billop* the Commander, to adminiſter the Oaths to thoſe Juſtices.——*New York* Records N° 1. Fol. 99.

The ſame Commiſſions entred in——*Newcaſtle* Records N° 11. Fol. 61.

Sept. 29. From *New York* Records, A ſhort Entry of a *Grant* from the Governor to *John Stevens* for 1200 Acres of Land, which had been certified by the Court at the *Whorekill*, in a Creek called *Little Creek*, near unto *St. John's Creek*, lying on the *Weſt* ſide of *Delaware Bay*, and on the North ſide of the ſaid Creek, near *Duck Creek*, and bounded partly upon Land formerly laid out to him.——*New York* Records N° 3. Fol. 65.

Same Day. From *Newcaſtle* Records, another *Grant*, at full length, from Governor *Andros*, dated at *New York*, unto *Juſta Andries*, of a Houſe and Lot of Ground at *Newcaſtle* in *Delaware*, near the Old Fort, late belonging to Captain *John Carr*, as by Patent from the late Governor *Lovelace* of 1 *May* 1671, being condemned by the Court at *Newcaſtle* and ſold for *Carr*'s Debts, reſerving Quit-Rent to the *Duke* one Buſhel.——*Newcaſtle* Records N° 11. Fol. 59.

Oct. 2. *A Court* held before the Juſtices at the Court of *Newcaſtle*, where the Governor's Commiſſion to Mr. *Wharton* to be Surveyor, dated 14 *Aug.* laſt was read and ordered to be recorded.——*Newcaſtle* Records N° 11. Fol. 60.

Oct. 6. That *Court* ſeems to be continued, and the Dedimus to ſwear the new Juſtices, and the new Juſtices Commiſſion, are entered, and the new Juſtices were ſworn.——*Newcaſtle* Records N° 11. Fol. 61.

Oct. 9. A *Bill of Sale* from Captain *Chriſtopher Billop*, to his Brother *Joſeph Billop* in Fee, of an Eſtate in *England*, wherein Captain *Billop* takes on himſelf this Title, *viz. Commander in* Delaware, *belonging to the Colony of* New York *in* America, *under his Royal Highneſs the Duke of* York.—With Governor *Andros*'s Certificate of the 25th of the ſame *October*, that the Perſons Names who were ſet down as Witneſſes to that Deed, were Magiſtrates or Officers in *Newcaſtle* in *Delaware*, Mr. *John Moll* being a Juſtice of the Peace, and Mr. *Edmund Cantwell* Sheriff there; And, a Note that that Deed, and ſome other Writings, were entred at the Requeſt of Mrs. *Mary Billop*, on 26 *Octob.* 1677.——Alſo *Chriſtopher Billop*'s Bond (wherein he takes the *ſame Title*) of 9 *Oct.* 1677, to his Brother *Joſeph Billop* in 600 *l.* penalty, to perform the Covenants in the ſaid Deed of Gift.——*Newcaſtle* Records N° 1. Fol. 101.

Oct. 10. A *Letter* from Governor *Andros* at *New York*, to the Governor of *Maryland*, acquainting him that having receiv'd the Duke's leave to go home this Winter, ſo as to return in the Spring, he ſhall ſail this Month, and hopes, and doubts not of the Continuance of his good Neighbourhood..——*New York* Records N° 1. Fol. 99.

Oct. 13. The Governor's *three Letters*, of the like Tenor, to the Judges or Magiſtrates of the Court at *Newcaſtle* on *Delaware*, to the Juſtices or Magiſtrates of the Court at *Upland*, and to thoſe of the *Whorekills*, acquainting them of his going home; and he adds, any Appeals to be, to the Court of Aſſizes, which, or Extraordinaries, may be ſent to the Secretary Captain *Nicholls* here, and, if occaſion, to be communicated to the Council.—*New York* Records N° 1. Fol. 100.

This Letter is alſo in——*Newcaſtle* Records N° 11. Fol. 62.

The ſame Day. The Governor writes another *Letter* to Captain *Billop*, the Commander at *Delaware*, acquainting him alſo of his going home, to return next Spring, and recommends Care to him in his Stations, both as to the *Militia* and *Cuſtoms*, and ſends him by the Sloop, *a Supply of Muſket Bullets*.—*New York* Records, N° 1. Fol. 100.

Oct. 19. Governor *Andros*'s *Letter* to *Ephraim Herman*, Clerk of the Cuſtoms at *Delaware*, wiſhes he could have had an exact Account of the *Quit Rents* of the River and Bay, before his going to *England*; Draw out and deliver to the Commander, for the chief Collector, an Account of all Permits and Fees paid by two Ships, there named.——*New York* Records, N° 1. Fol. 102.

Nov. 10. Governor *Andros*'s *Commiſſion*, dated in, and under the Seal, of the Province of *New York*, wherein, by Virtue of the King's Letters Patent, and the Commiſſion and Authority given to the Governor by the *Duke*, he the ſaid Governor, in his Majeſty's Name, appoints ſeven Perſons to be Juſtices of the Peace at the *Whorekill*, *and the Dependencys*, *viz. Helmanus Willbank*, *Henry Smith*, *Alexander Moleſteyn*, *Edward Southeran*, *Paul Maſh*, *John Barkſtead*, and *John Roads*, and any four, or more, to be a Court of Judicature, To be in Force for *one* Year, or until further Order.——*New York* Records, N° 1. Fol. 102.

Now we have no more Acts of Governor *Edmund Andros* Eſq; till he gets back to *America* next Year; and then he comes back Sir *Edmund Andros*, *Knight*. We ſee he received the Government from the *Dutch*, but the laſt Day of *October*, 1674. and we have Entries, (in the *New York* Records) of *many more Grants* of Lands made by the Governor *Edmund Andros*, Eſq; but *without any Dates* to them; they muſt, of *Neceſſity*, therefore, have been dated between *October*, 1674, and *Nov.* 1677. and ſo here they follow, in *this* Place, it not being our Fault that the Records, in the *King's Province* of *New York*, are no better entered up.

Note, All theſe Lands that follow are expreſsly ſaid to be on the *Weſt* Side of *Delaware* River, or Bay, and are all contained in *New York Records*, N° 3. but the particular Folios of that Book are marked, againſt each ſingle Grant.

To *Peter Dalboe*, 300 Acres on the Eaſt Side of *Schuilkill*, Quit Rent, three Buſhels.—Fol. 32.
To *Laurentius Carolus*, 350 Acres near *Crum Kill*, Quit Rent, three Buſhels and an half.——Fol. 25.
To *Charles Janſen* and others, 1000 Acres in *Naamans Creek*, Quit Rent, 10 Buſhels.—— Fol. 58.
To *Henry Barker*, a Town Lot below the *Fort* at *Newcaſtle*.——Fol. 54.
To *William Currer* and another, 600 Acres in *St. George's Neck*, North Side of *Dragons* Swamp, Quit Rent, ſix Buſhels.—Fol. 51.
To *John Pitt*, 500 Acres in *St. George's Neck*, Quit Rent, five Buſhels, Fol. 52.
To *Evan Saliſbury*, 300 Acres in *St. George's Neck*, Quit Rent, three Buſhels.——Fol. 49.
To *George Axton*, 200 Acres, South Side of *St. George's Creek*, Quit Rent, two Buſhels.——Fol. 24.
To *William Grant*, 400 Acres on South Side of main Branch of *St. George's Creek*, Quit Rent, four Buſhels.——Fol. 24.
To *William Marriot*, 100 Acres, on South Side of *St. George's Creek*, Quit Rent, one Buſhel.—Fol. 34.
To *Richard Scaggs*, 300 Acres, on South Eaſt Side of South Weſt Branch of *St. George's Creek*, Quit Rent, three Buſhels.—Fol. 31.
To *Abraham Enloes*, 170 Acres on North Side of *St. Auguſtine's Creek*, Quit Rent, one Buſhel and half.——Fol. 59.
To *Peter Alricks*, 560 Acres, on South Eaſt Side of *St. Auguſtine's Creek*, Quit Rent, five Buſhels and half.——Fol. 59.
To *Brian Omella*, 200 Acres, on North Side of *Drawyers Creek*, Quit Rent, two Buſhels.—Fol. 48.
To Ditto, 200 Acres, on South Side of *Drawyers Creek*, Quit Rent, two Buſhels.——Fol. 57.
To *Maurice Daniel*, 190 Acres, on North Weſt Side of *Apoquiniminick Creek*, Quit Rent, two Buſhels.——Fol. 60.
To *Edward Swandall*, 200 Acres, on North Weſt of *Black-bird Creek*, Quit Rent, two Buſhels.——Fol. 50.
To *Robert Tallent*, 200 Acres, on South Eaſt of *Black-bird Creek*, Quit Rent, two Buſhels.——Fol. 51.
To *Thomas Bromall*, 300 Acres, on South Eaſt of *Black-bird Creek*, Quit Rent, three Buſhels.——Fol. 58.
To *Thomas Coks*, 300 Acres, on South Eaſt of *Black-bird Creek*, Quit Rent, three Buſhels. ——Fol. 56.
To *John Woodas*, 400 Acres, on South Eaſt of *Black-bird Creek*, Quit Rent, four Buſhels.—Fol. 57.
To *William Ford*, 800 Acres, on North Side of *Duck Creek*, Quit Rent, eight Buſhels.—Fol. 22.
To *John Denn*, 200 Acres, on North Side of *Duck Creek*, Quit Rent, two Buſhels ——Fol. 27.
To *John Morgan*, 300 Acres, on North Side of *Duck Creek*, Quit Rent, three Buſhels.—Fol. 22.
To *Francis Whitwell*, 400 Acres, on North Eaſt Side of *Duck Creek*, Quit Rent, four Buſhels.—Fol. 48.
To *Stephen Durdene*, 400 Acres, on North Eaſt Side of a Branch of *Duck Creek*, called *Middle Branch*, Quit Rent, four Buſhels.—Fol. 56.
To *Nicholas Bartlett*, 400 Acres, on North Eaſt Side of *Duck Creek*, Quit Rent, four Buſhels.—Fol. 52.
To *Henry Bowen*, 400 Acres, on South Side of *Duck Creek*, Quit Rent, four Buſhels.—Fol. 56.
To *Herbert Craft*, 300 Acres, on South Side of *Duck Creek*, Quit Rent, three Buſhels.——Fol. 20.
To *Edward Man*, 500 Acres, on South Side of *Duck Creek*, Quit Rent, five Buſhels.——Fol. 34.
To *Oliver Melington* and another, 400 Acres, on South Side of *Duck Creek*, Quit Rent, four Buſhels.—Fol. 57.
To *Henry Palmer*, 400 Acres, on South Side of *Duck Creek*, Quit Rent, four Buſhels.—Fol. 48.
To *Robert Dickes*, 200 Acres, on North Side of a Branch above *Little Creek*, Quit Rent, two Buſhels.——Fol. 21.
To *Peter Perry*, 200 Acres, on North Side of a Branch of *Little Creek*, Quit Rent, two Buſhels.——Fol. 21.
To *William Willoughby*, 200 Acres above *Little Creek*, Quit Rent, two Buſhels.——Fol. 23.
To *John Webb*, 300 Acres, on South Side of *Little Creek*, Quit Rent, three Buſhels.—Fol. 23.
To *John Autrey*, 300 Acres, in *St. John's Creek*.—Fol. 68.
To *Daniel Whitley*, 300 Acres, at the Head of *St. John's Creek*.—Fol. 68.
To *Thomas Philips*, 600 Acres, on North Side of *St. Jones Creek*, Quit Rent, ſix Buſhels.——Fol. 21.
To *Peter Bawcom*, 200 Acres, on South Side of *St. Jones Creek*, near *Murder Creek*, Quit Rent, two Buſhels.——Fol. 28.
To *Robert Frances*, 400 Acres, on South Weſt Side of *St. Jones Creek*, Quit Rent, four Buſhels.——Fol. 21.
To *Frances Neales*, 400 Acres, on South Weſt Side of *St. Jones Creek*, Quit Rent, four Buſhels.—Fol. 8.
To *Henry Stevenſon* and another, 600 Acres, on North Side of *Murder Creek*, Quit Rent, ſix Buſhels.—Fol. 28.
To *James Peddy*, 600 Acres, in *Maſpillin Creek*, and on North Side of it.—Fol. 41.
To *Thomas Davis Taylor*, 500 Acres, Eaſt Side of *Maſpillin Creek*.—Fol. 42.
To *John Field*, 300 Acres, in *Maſpillin Creek*.——Fol. 44.
To *Richard Hill*, 1000 Acres, on *Miſpillin Creek*.—Fol. 39.
To *Joſias Cowdery*, 700 Acres, on North Side of *Cedar Creek*.—Fol. 65.
To *Robert Hart*, 600 Acres, on North Side of *Cedar Creek*, Quit Rent, ſix Buſhels.—Fol. 33.
To *Robert Hart* Jun. 500 Acres, on *Cedar Creek*.—Fol. 38.
To *Thomas Davis*, 300 Acres, in *Cedar Creek*.——Fol. 39.
To *Edward Forloung*, 400 Acres, in *Cedar Creek*—Fol. 40.
To *John Otten*, 300 Acres, in *Cedar Creek*.—Fol. 40.
To *John Aſhman* and another, 300 Acres, on South Side of *Cedar Creek*, Quit Rent, three Buſhels.—Fol. 49.
To Dittos, 400 Acres, on South Side of *Cedar Creek*, Quit Rent, four Buſhels.—— Fol. 50.
To *Alexander Draper* and another, 996 Acres, on South Side of *Cedar Creek*, Quit Rent, ten Buſhels.——Fol. 64.
To *John Deprey*, 1000 Acres, near *Slaughter Creek*.——Fol. 37.
To *James Lillie*, 300 Acres, on a Branch of *Slaughter Creek*.——Fol. 43.
To *Randal Revel*, 900 Acres, on *Slaughter Creek*, *near to the* Whorekill, Quit Rent, five Buſhels.——Fol. 20.
To *William Prentis*, 400 Acres, in the Woods, five Miles South Weſt from the *Whorekill Town*.——Fol. 42.
To *William True*, 300 Acres, in the Woods, five Miles Diſtance, South Weſt from the *Whorekill*.——Fol. 45.
To *Jacob Seth*, 500 Acres, South Weſt from the *Whorekill* Town, Diſtance about four Miles. ——Fol. 44.
☞ To *Henry Smith*, 3000 Acres, called *Prime Hook*, near *Slaughters Creek*, by *Prime Creek*, Quit Rent, 30 Buſhels.——Fol. 20.
To *John Cornelis*, 300 Acres, in *Marches Creek*, to the North of the *Whorekill Town*.——Fol. 36.
To *John Kirk*, 800 Acres, in the Woods, South Weſt from the *Whorekill* Town, about five Miles, and to a Branch proceeding from *Rehobuth Bay*.——Fol. 42.
To *Daniel Brown*, 400 Acres, upon *Pagans Creek*, near the *Whorekill*, Quit Rent, four Buſhels.——Fol. 46.
To *Hermanus Woolbank*, 134 Acres, upon the *Whorekill* and *Pagans Creek*, Quit Rent, one Buſhel and a Quarter.——Fol. 55.
To *Edward Southeran*, 400 Acres, on *Pagans Creek*, Quit Rent, four Buſhels.——Fol. 53.
To *John Kephaven*, 69 Acres, near *Pagans Creek*, upon the *Whorekill*, Quit Rent, Half a Buſhel.—Fol. 55.
To *Alexander Moleſtedy*, 611 Acres, upon the *Whorekill*, near *Pagans Creek*, Quit Rent, ſix Buſhels.——Fol. 46.
To *William Tom*, 132 Acres, by *Pagans Creek* and the *Whorekill*, Quit Rent, one Buſhel and a Quarter.——Fol. 54.

To

To Ditto, 80 Acres, upon the *Whorekill*, near *Pagans Creek*, Quit Rent, three Pecks.——Fol. 55.
To *Cornelius Verhoofe*, 112 Acres, at Mouth of the *Whorekill Creek*.——Fol. 37.
To *Henry Stretcher*, 600 Acres, upon the *Whorekill*, by *Kickout*, Quit Rent, six Bushels.——Fol. 32.
To *John Lining*, 300 Acres, in the Woods, to the *Eastward* of the *Whorekill* Town.——Fol. 40.
To *William Warren*, 300 Acres, at *Potoks Creek*, on East Side of *Whorekill* Town.——Fol. 38.
To *Abraham Clement*, 400 Acres, in *Cimbals Neck*, on *Mill Creek*.——Fol. 35.
To *Walter Lewis*, 300 Acres in *Cimbals Neck*, on North Side of a small Creek.—Fol. 35.
To *Henry Stretcher*, 400 Acres, in *Cimbals Neck*, joining to *Mill Creek*.—Fol. 41.
To *John Alkward*, 400 Acres, on *Cimbals Neck*, joining to *Mill Creek*.—Fol. 41.
To *James Welles*, 400 Acres, at *Loues Creek*.——Fol. 43.
To *John Johnson*, 400 Acres, on *Rehobuth Bay*, upon *Loues Creek*.——Fol. 45.
To *Robert Brasey*, 800 Acres, in the *Woods*, near *Rehobuth Bay*.——Fol. 39.
To *Robert Brasey* Jun. 300 Acres upon *Rehoboth Bay*, Distance from the *Whorekill about ten Miles*, bounded by *Richard Brasey*.——Fol. 65.
To *Richard Brasey*, 300 Acres, on *Middle Creek*.——Fol. 35.
To *William Burton*, 1000 Acres, on South Side of *Rehoboth Bay*, and on North Side of the Great River, and by *Middle Creek*.——Fol. 38.
To *Henry Peddington*, 400 Acres, on *Rehoboth Creek*, Quit Rent, four Bushels. —Fol. 53.
To *Hubert Francis*, Land, in *St. Johnsons Creek*.—Fol. 44.
To *John Collison*, 300 Acres, on North Side of *Great Creek*, Quit Rent, three Bushels.—Fol. 63.
To *Thomas Gilley* and another, 450 Acres, on North Side of *Great Creek*, Quit Rent, four Bushels and Half.—Fol. 64.
To *Charles Barnard*, 300 Acres, on the *Great Creek*, Quit Rent, three Bushels.—Fol. 63.
To *John Briggs*, 400 Acres on South Side of *Bawcom Briggs Creek*, Quit Rent, four Bushels.——Fol. 28.
To *William Booth*, 200 Acres, on South West of *Bawcom Briggs Creek*, Quit Rent, two Bushels.—Fol. 50.
To *Samuel Barbary*, 200 Acres, on South Side of *Bawcom Briggs Creek*, Quit Rent, two Bushels.——Fol. 46.
To *Cornelius Verhoofe*, 1218 Acres, on North Side of *Mispann Creek*, by *Indian Bridge Creek*.—Fol. 36.
To *Samuel Stilis*, 400 Acres, on North Side of *Maspim Creek*. —Fol. 36.
To *Christopher Jackson*, 300 Acres, on North Side of *Mispann Creek*.— Fol. 45.
To *Thomas Gadd*, 300 Acres, on a Creek proceeding out of *Mispann Creek*, Quit Rent, three Bushels.—Fol. 64.
To *Samuel Styles* and another, 744 Acres, on North Side of *Mispann Creek*.——Fol. 37.
To *Peter Cock*, 650 Acres, on *Quessinawominck Creek*, Quit Rent, six Bushels and Half.——Fol. 25.
To *Laurence Cock* and others, 1600 Acres, at *Cohockfinks Creek*, Quit Rent, 16 Bushels.——Fol. 26.
To *Michael Fredericks*, 300 Acres, at *Sissowokissink Creek*, Quit Rent, three Bushels.——Fol. 61.
To *Errick Mullock* and others, 950 Acres, at *Sissowokissink Creek*, Quit Rent, nine Bushels and Half.——Fol. 27.
To *Sanders Molestin*, 50 Acres, on Back of his own Land.—Fol. 43.
To *Francis Walker* and another, 450 Acres, on the lower Side of *Nishambanack Creek*, Quit Rent, four Bushels and a Half.—Fol. 62.
To *Peter Peterson* and another, 500 Acres, on lower Side of *Pimmecpahkahs Creek*, Quit Rent, five Bushels.—Fol. 26.
All the 108 foregoing Grants are shortly entered in the *New York* Records N° 3. at the Folios before respectively mentioned.

1677, *Jan.* 1. From the *Newcastle* Records, A Court being held at *Newcastle*, Captain *Billop*, the new Commander there, delivers them a Letter that the *Fort* belonging to that Town, being for the *publick* Service, ought to be repaired by the Inhabitants within that Jurisdiction, and *not out of his Royal Highness's Revenues*, and desires they'll take care to raise Moneys to repair it, and that this his Letter and their Answer to it may be recorded.——*Newcastle* Records N° 11. Fol. 62.

Jan. 2. The *Court* read that Letter, and gave for Answer, that when the Sheriff brought in his Account of Receits at *Lady-Day*, and the Debts already due on the publick Account should be first paid, the Court is willing what should be left should be so employed.——*Newcastle* Records, N° 11. Fol. 62.

Jan. 2. *Five Petitions* presented to the Court, who grant Liberty to four of the Petitioners to take up 200 Acres a-piece, and to the fifth to take up a Town Lot, they seating,
Jan. 3. improving, and building, according to the *Governor's Orders*.—*Newcastle* Records, N° 11. Fol. 63.

March 7. An *Indenture* between *Samuel Styles*, and *Robert Trayley*, of *the Whorekills*, Planters *of the Province of New York*, of the one Part; and *John Shackerley*, and *Raynier Williams* of *New York*, Merchants, of the other Part.——Reciting, that the Duke of *York*, by his Grant under the Great Seal of the Province of *New York*, dated 29 *Sept.* 1677. did grant unto the said *Styles* and *Trayley*, a Parcel of Land on the West Side of *Delaware* Bay, called *Styles*'s Delight, on the North Side of a Creek, called *Muspalling Creek*, containing 744 Acres; now they, for valuable Consideration, convey the same to *Schackerley* and *Williams*, in Fee, To hold, *under his Royal Highness*, for the Rents and Services in the original Deed recited ——mentioned to be sealed and delivered in the Presence of the open Court, and acknowledged at the Court held for the *Whorekills*, on the 12th of the same; this Deed is said to have been recorded at the Request of *Johannes Kypp*; and that the original Deed was brought to *St. Jones's Court*, being a called Court, held for *Johannes Kypp* and *Raynier Williams*, Plaintiffs, and *Cornelius Verhoofe*, Defendant, on 23 *April*, 1681. confirming [I suppose they meant *concerning*] said Land.——*Kent* County Records, N° 14. Fol. 15, 16.

1678, *May* 22. From the *Newcastle* Records, *A Copy of Minutes* of a Council held in *New York*, ordering an Express to be sent to the Commander and Justices of *Newcastle* in *Delaware*, to notify to Major *Fenwick*, not to assume the Powers he did, on the *East* Side of the River, he having therein broke his Parole, and, if he refuses, the said Commander and Justices are to order him to go to *New York*, and, if he denies that, then the said Commander and Magistrates, together with the Sheriff, are to use *Force* to seize his Person, and send him to *New York*.—*Newcastle* Records, N° 11. Fol. 64.

June 3. An *Entry* in the *Newcastle* Records, that in pursuance of the said Order of Council, the Justices from *Newcastle* writ the there following *Letter* to Major *Fenwick*, at *New Salem*, acquainting him what Order they had received from the Council of *New York*, and that he should forbear assuming any Power on the East Side of *Delaware*, and to send them his Answer.——*Newcastle* Records, N° 11. Fol. 64.

Same Day. An *Entry* in the *Newcastle* Records, of Major *Fenwick*'s *Letter* sent back by *Thomas Wooleston*, Under Sheriff, wherein he insists he has Authority to act, by Virtue of the King's Letters Patent, and of the *Duke's* Grant to *John* Lord *Berkley*, and Sir *George Carteret*, and the Lord *Berkley*'s Deed to the said Major *Fenwick*, all which had been before produced to the Governor and Council at *New York*; and that he is not obliged to go to *New York*, *&c.*—*Newcastle* Records, N° 11. Fol. 64.

June 5. Another *Entry* in the *Newcastle* Records, of a *Letter* signed by the Justices there, and directed to Captain *Matthias Nicholls*, and the rest of the Council in *New York*, acquainting them with, and sending them the Letters between them and *Fenwick*, informing, that *Fenwick* still acts; and granted, but on the *Saturday* last, a special Warrant for the apprehending one *Eldridge*, and declares, that no Man shall take him alive; no, not if the Governor himself came; therefore, what you further resolve, if directed to us, we desire may be absolute and sufficient, for he won't be taken without Bloodshed.—As to Mr. *Toms*, deceased, there was an Execution against his Body, but not against the Estate: But, if your Honours think fit that the whole Estate, real and personal, be sold, we then desire a more positive and absolute Order, and it shall be readily performed by us. ——— *Newcastle* Records, N° 11. Fol. 65.

Jun. 21. Another *Entry* of a Meeting (afterwards) of the Commander and Justices at *Newcastle*, at which Meeting they read, and entred, an *Answer*, of this Date to the Justices from the Council of *New-York*, complaining that their Letter of the 5th was very little satisfactory to the Council; they say the Council's former Order about *Fenwick* was absolute and full, in case of his Refusal, so they shall not alter any thing therein, but leave the Justices to answer their Neglect to the Governor, *who is dayly expected*.——Also a great deal about selling Captain *Tom*'s Estate, to pay Debts; and that it's unreasonable Captain *Delavall*'s Judgment should be excluded, because Mr. *Tom* had in his Will excluded it; The Execution against the Debtor's Body not being thought sufficient to debar the Creditor, where there was Effects,——The Council admires at the Court's so sudden giving Judgment against the Deceased's Estate for a Stranger, of *Maryland*, which may defeat others within the Government: Upon your Desire of more particular Orders, the Council think it convenient that one of the Creditors should administer upon *Tom*'s Estate, and that Captain *Cantwell* (who resigned any Interest for his Son, who was named *Tom*'s Executor) is the fittest Person to have it; who, upon giving Security to administer according to Law, and returning a Certificate thereof, *may have Letters of Administration from hence*.——*Newcastle* Records, N° 11. Fol. 66.

July 17. An *Entry* in *Newcastle* Records, that the Commander and Justices this Day met at *Newcastle*, and read the forementioned Letter, and then Captain *Billop* acquainted them that he had been last Week at *Salem*, and that then *Fenwick* was willing to answer the Council's Order at *New-York*, and that he will surrender himself at *New-York*; whereupon, it was resolved that, if *Fenwick* will give under his Hand, by a Letter to the Council, that he will not assume any Government on that side of the River, and that he will, within 20 Days, appear at *New-York*, then, he be left there; but, in case of Refusal, then, that the Commander and High-Sheriff press and take with them so many of the Militia as they think fit, and with them seize *Fenwick*, and send him to *New-York*, without Delay, according to the Order of the Council.——*Newcastle* Records, N° 11. Fol. 67.

Same Day. A *Letter* from the Commander and Justices at *Newcastle*, to Major *Fenwick* at *Salem*, of the Purport of the foregoing Order.——*Newcastle* Records, N° 11. Fol. 67.

July 24. Another *Entry* in *Newcastle* Records of a *Letter* from the Court at *Newcastle*, directed to Captain *Matthias Nicolles*, and the rest of the Council, at *New-York*, acquainting them what they had done as above, against *Fenwick*, and that, since, the Commander and Sheriff *have fetched Fenwick* to *Newcastle*, and the Commander intends to send him by Land.—— As to *Tom*'s Estate, Captain *Cantwell* offers Security, and *intends to go to* New-York *himself to take out Letters of Administration*.——As to the Judgment so suddenly given, those of *Maryland* make no difference, in the like cases, with us, but suppose there will be little left after Captain *Delavall*'s Debt is paid.——*Newcastle* Records, N° 11. Fol. 67.

Aug. 4. From the Records in *Kent* County, *A Grant* at full Length from Sir *Edmund Andros Knight*, Lieutenant-Governor under the Duke of *York*, dated in, and sealed with the Seal of *New-York*, granting to *John Briggs* Land laid out by Warrant from the Court of *Whorekills* on West-side of *Delaware* Bay, about two Miles above *St. Jones Creek*, bounded partly by *Robert Jones*, and *Walter Wharton*, containing 260 Acres as by the Survey, Quit-Rent reserved to the Duke 2 Bushels and ½.——*Kent*-County Records, N° 14. Fol. 7.

Aug. 14. } From *New-York* Records, the Entries of *Three Grants* from Sir *Edmund Andros* of Lands laid out by Warrant from the Court at the *Whorekill*.——1. To *Francis Whitwell*
14. } on *West* side of *Delaware* Bay, and on North side of the Southermost Branch of *Duck-Creek*, containing 1000 Acres, Quit Rent 10 Bushels.——2. The just-mentioned Grant to
14. } *John Briggs*, of Land on the *West* side of *Delaware* Bay, about two Miles above *St. John*'s *Creek*, bounded partly by *Robert Jones* and *Walter Wharton*, containing 260 Acres, Quit Rent two Bushels and a Half.—3. To *John Briggs* and *Mary Phillips* joyntly, on North side of *St. Jones*'s *Creek*, containing 450 Acres of Land and 40 Acres of Marsh, Quit Rent 5 Bushels.——*New-York* Records, N° 3. Fol. 66.

Aug. 22. From the *New-York* Records, *Minutes of the Council*, Major *Fenwick* having been sent from *West-Jersey*, in the Governor's Absence, about his late Disturbance there, and having had Copys of what was laid to his Charge, in the several Depositions taken at *Newcastle* in *Delaware* against him, and now appearing before the Governor in Council, desiring Time to answer and to prepare Witnesses on his Part, alledging his Interest to be *distinct* from *this* Government, *so not to be judged or concluded by it*, therefore, prays an Appeal from the Judgment of the Court of Assizes *to the King*, in order whereto presses to have leave to go home about his Occasions, the same was not allowed, nor here dismist, but referr'd to the Judgment of the Court of Assizes given against him.——*New-York* Records, N° 1. Fol. 95.

Sept. 6. From *Newcastle* Records, at a Court which was afterwards held at *Newcastle* before all the Justices there is an Entry made, of a *Receipt*, of this Date, signed by *John Moll* and *Peter Alricks*, for 8 Iron Guns, 24 Musquets, Bandileers, Iron and Shott, Musquet Bullets, Powder, *&c.* received from Capt. *Billop* as belonging to the Fort (I suppose he had been then removed.)————*Newcastle* Records, N° 11. Fol. 68.

Oct. 8. From *New-York* Records, Governor *Andros*'s *Commission*, dated in, and sealed with the Seal of *New-York*, appointing 7 Persons, *Justices of the Peace* at the *Whorekill* and *Dependencys* in *Delaware* Bay, *viz. John Avery*, *Francis Whitwell*, *Alexander Molestyn*, *John Kipshaven*, *Luke Watson*, *John Roads*, and *James Wells*, and any four of them to be a *Court of Judicature*, to be in Force for one Year.——*New-York* Records, N° 1. Fol. 103.

Oct. 11. *A Letter* from Capt. *Matthias Nicolls*, dated from *New-York*, and said to be written by the Governor's Order.——There was 680 Acres *laid out* for *Nathaniel Walker* on 11 *May* 1677. scituate upon the *South-westermost* Creek of *Rehoboth Bay*, it is the Governor's Order that he shall have the Land, after it has been certifyed by your *Court* that it's not already granted or possest; upon the Return whereof he may have a Patent for the same.——There is a Piece of Land at the *Whorekill* possest between *Nathaniel Walker* and *John Winder*, for which there is a Patent in the Name of *Robert* instead of *John Winder*, the which is to be rectifyed, the Land lyes by *Broad Creek*, between the *Kill* and *Prime Hook*, containing in the Patent 1000 Acres, and an Island lying, at the Bottom of the Land, of about 100 Acres, which was surveyed for Part of it; but *Henry Stretcher* having a Grant, from the *Court*, for about 600 Acres, in no certain Place, has pitched upon this 100 Acres Island as Part, the same not being particularized in *Winder*'s Patent; which, if enjoyed by *Stretcher*, will hurt *Walker* and *Winder*; it is the Governor's Pleasure that the said Island shall belong to *Winder*'s Patent, and *Stretcher* is to take up his Land in some *other* Place, altogether, as near as may be, and not by Parcel or Piece-meal.——*Sussex* Records, N° 17. Fol. 8.

From

Oct. 12. From the *New-York* Records, Governor *Andros* ſigns a *Writing* at *New-York*, certifying that Capt. *Avery*, who was one of the ſeven Juſtices of the Peace of the Court at *Whorekill*, had taken his Oath as ſuch, and authoriſing him to adminiſter the Oath to the *others* joyned with him.——*New-York* Records, N° 1. Fol. 103.

Oct. 14. A very ſhort Entry in the *New-York* Records, that there was a *Commiſſion* for ſeven Perſons there named as Juſtices of *Newcaſtle* in *Delaware*.——*New-York* Records, N° 1. Fol. 103.

Oct. 26. From the *New-York* Records, the following *Order*, ſigned by Governor *Andros* at *New-York*, viz. Whereas in 1675 I did, amongſt other Regulations, remit the *Quit-Rents* for the firſt three Years, of all *New* Lands to be taken up in *Delaware Precincts*, which has proved inconvenient, by many taking up and not ſeating; I therefore *repeal and recall the ſame*, except for ſuch as have ſeated and improved; but all ſuch as have taken up Land, and not ſeated and returned and made due Returns thereof, as by Law and Orders, ſent laſt Year to be recorded, to *forfeit* the ſame, and the Land to be diſpoſed of as vacant Land; and all ſuch as have improved and ſeated, but not made Returns, are required, within ſix Months, to return it to the Clerk of the Court within whoſe Juriſdiction it is, to be there recorded, and by the Court certified *to the Secretary's Office here*; and ſuch as have not paid their *Quit-Rents* due, may come, within ſix Months as above, and account and pay the *Arrears*, to the now Receiver, from my firſt coming into the Country in 1674; and, for the future, all ſuch as have or ſhall take up Land, are to pay their Quit-Rents from the taking up ſuch Land, and yearly, at the Towns of *Upland*, *Newcaſtle*, and *Whorekill*, for the ſeveral Precincts, to their Perils; and ſuch as ſhall take up and not improve Land, to forfeit the ſame according to Law.——This Order to be forthwith publiſht and ſet up at the Court-houſes of *Upland*, *Newcaſtle* and *Whorekill*, in *Delaware*.——*New-York* Records, N° 1. Fol. 104.

The ſame Order alſo entred in the——*Newcaſtle* Records, N° 11. Fol. 70. and in——*Suſſex* Records, N° 17. Fol. 9.

Oct. 26. From the *New-York* Records, Governor *Andros*'s *Letter* dated in *New-York*, and ſent to the Juſtices of *Newcaſtle*.——Your Deſire of a *Miniſter* is allowed by the Law; a *new Commiſſion for Magiſtrates* is herewith ſent; and alſo a *Law-Book*; Capt. *Carr*'s Land is allowed to be ſold for the Creditors, and the Purchaſer may have a new Patent for his Title; the *Court* have power to order Matters relating to the *Surveyor*, in every reſpect, according to Regulation and Law; the Book of Laws gives Directions for *Weights* and *Meaſures*, but ancient Cuſtom may be lookt upon as Law; the publick *Weigh-houſe* is to be groſs Weights only; Payment for *Wolves* and other neceſſary Charges are to *continue*, on the *Eaſt* ſide, as formerly; when the Accounts of *publick Debts* are ſtated and allowed, Order ſhall be taken for Payment as deſired; Houſes and improved Lands are liable to pay Debts, as well as Moveables; where none *adminiſter* the Court may appoint fit Perſons, having due Regard to Widows; all Favour may be expected to *Trade* (ſo as the Acts of Parliament and Orders thereon be not infringed) with due Regard to the Cuſtom-houſe *here*; the late Commander [*Billop*] is *here*, and to give an Account of his acting *in your Parts*; if any have been wronged by him, they ſhall have Right; alſo any *publick Matter*, which may further accrue, rectified, as ſoon as may be.——*New-York* Records, N° 1. Fol. 103.

The ſame Letter entred in——*Newcaſtle* Records, N° 11. Fol. 68.

Same Day. There is *a very material* Entry, in the *New-York* Records, of a *Commiſſion* granted by Governor *Andros* at *New-York*, appointing ſix Perſons to be Overſeers, ſelect Men, or Commiſſioners, on the *Weſt-ſide of New-Jerſey*, on *Delaware* River, at *Elſingburgh* and Parts adjacent, for one Year, amongſt the New-comers; and, if any Diſpute ariſe amongſt them and old Inhabitants of thoſe Parts, then, Mr. *Outhout*, who has been an ancient Inhabitant *there*, and is *now* one of the Juſtices of *Newcaſtle*, to have notice, who is authorized, upon ſuch Occaſion, to be one of the Court, and, being there, is to preſide; and you, or any four, to *keep a Court* as a Town or Corporation, quarterly or oftener, to *appoint Conſtables*, and *to allow fit Proportions of Land* for preſent Improvement, the ſame being duly purchaſed, *and to hear and determine all Matters*, not extending to Life, Limb, or Member, or, *exceeding* 5 *l. Above which, to admit an Appeal to the Court of Juſtices at* Newcaſtle.——*New-York* Records, N° 1. Fol. 104.

Oct. 28. From the *New-York* Records, Governor *Andros*'s Order, dated in *New-York*, directed to the Juſtices of the Court of *Newcaſtle*, reciting that he had received ſeveral Complaints and Petitions, from divers Inhabitants of the *Eaſt* ſide of *Delaware* River, that they have been diſturbed in the Poſſeſſion of their Lands and Tenements by Major *John Fenwick* and others, I deſire and *authorize* you the Juſtices of the Court of *Newcaſtle* to take care that the ſaid Inhabitants be not diſturbed in their Poſſeſſion, upon any Pretence whaſoever, by the ſaid *Fenwick* or any others, and, if Occaſion, to make me forthwith acquainted with the ſame.——*New-York* Records, N° 1. Fol. 105.

This ſame Order is alſo entred in *Newcaſtle* Records, N° 11. Fol. 69.

Nov. 1. From the *Newcaſtle* Records, Entry of the *Court's Proceedings* held this Day at *Newcaſtle*, wherein the Governor's Letter to them, before ſtated, of the 26th of *October*, is entred; then they go on and ſay, that Mr. *Michael Baron*, for himſelf and in behalf of the other old Inhabitants of the Eaſtern Shore, this Day brought and produced in Court a Warrant from Sir *Edmund Andros* Governor, directed to this Court, being the laſt Order herein before ſtated, which Warrant they alſo record; Then they go on and ſay, that the Governor's Order *about Lands*, herein before ſtated, was alſo this Day read in Court and fixed up at the Court-houſe, and, then, that Order is alſo entred; and then they proceeded to make *ſeveral Orders* of their own; the Petition of *Hans Peterſon*, deſiring to take up Lands in *Schilpatts Creek*, formerly improved, is referred to next Court-day; another Petition of D°. to take up ſome Marſh before *Joulſen*'s Iſland referred till next Court-day; a Petition of *Peter Alricks* to take up 200 Acres in *Apoquenemen*, granted, he ſeating and improving according to the *Governor's Regulations*; a Petition of *John Walker*, to take up 200 Acres granted on the *ſame* Conditions; a Petition of *Moſes de Gann* for a Lott in the Town of *Newcaſtle* granted; and the like to *John Boyer*.——*Newcaſtle* Records, N° 11. Fol. 70.

Nov. 18. From the *New-York* Records, Governor *Andros*'s *Warant*, dated in *New-York*, and directed to Capt. *Edmund Cantwell*, Sheriff of *Delaware*, authorizing him to put *Robert Stacey* in Poſſeſſion of *Mattiniconk* Iſland, in *Delaware* River, which the Governor had leaſed to *Stacey* for ſeven Years from the 1ſt of *January* then next, to enjoy the Benefit of his Leaſe.——*New-York* Records, N° 1. Fol. 105.

Same Day. Governor *Andros*'s *Order*, ſigned and dated at *New York*, reciting that ſome of the *Land* on the Weſt ſide of *Delaware* River, below the late Purchaſe at the *Falls*, is as yet, *unpurchaſed* of the *Indian* Proprietors, therefore, he authorizes and appoints Capt. *Edmund Cantwell* and *Ephraim Harman*, to agree for and buy of the *Indian Proprietors*, all that Tract, yet unpurchaſed, on the *Weſtern* Shore of *Delaware* River, between the *late* Purchaſe at the *Falls* and the *former* below, together with any *Iſlands* in the River, and to adjuſt Time, Place, Sum, and Species, for Payment, of which to give *me* preſent Notice, for my Approbation, whereupon Order ſhall be taken for the *Indians* Satisfaction.——*New-York* Records, N° 1. Fol. 105.

Same Day. Governor *Andros*'s further *Order*, dated at *New-York*, requiring Capt. *Cantwell* and *Ephraim Herman* to ſend the Governor a particular Account of the Rate or Levy laid in *Delaware* the laſt Year towards defraying publick Charges in thoſe Parts, what it was, how raiſed, what it amounted to, and how diſpoſed of? And alſo the Copies of all Orders relating thereto, and a particular Account of what *Debts* there are, yet remaining unpaid, ſince the late Change of Government, that due Care may be taken for their Satisfaction.——*New-York* Records, N° 1. Fol. 105.

Nov. 30. *An Order* of the Governor and Council in *New York*, reciting that *Henry Smith*, of the *Whorekill* in *Delaware* Bay, had raiſed ſeveral Reports againſt ſome of the Magiſtrates and Officers belonging to the Court there, and having declared the ſame before the Governor, did afterwards, on the 8th of *October* paſt, deliver in a Paper, charging two of the ſaid Juſtices and the Clerk of the ſaid Court with ſeveral *Crimes* in general Terms, whereupon, he was committed to the Sheriff of the City of *New-York*, till he ſhould give 500 *l.* Security to proſecute or make good his Charge againſt them according to Law, which he refuſing, but pretending an Inqueſt in the County for it, the whole Matter having been debated in Council, the ſaid *Smith* is *adjudged to pay*, as a *Fine*, to the Church or Poor *here*, 10 *l.* together with all incidental Charges; and that he be, likewiſe, bound in a Bond of 20 *l. at the Whorekills*, to be of the good Behaviour, till the next general Court of Aſſizes; and all Perſons left to due Courſe of Law.——*New York* Records, N° 1. Fol. 106.

Note well; That we have, from the Records of *New-York*, the Commiſſions and ſpecial Warrants hereafter mentioned, which were granted by Governor *Andros*, in the ſelf-*ſame* Form and Manner, for Magiſtrates, Officers, and upon other Occaſions, to the City of *New-York*, and other Places, which were *meerly* within the *Body* of the Province of *New-York*, viz.

1674. *Nov.* 10. His Commiſſion to the Mayor and Aldermen of the City of *New-York*.——*New-York* Records, N° 1. Fol. 128.
1674. *Feb* 25. His Commiſſion to the Clerk of the Court in *Long-Iſland*.——Fol. 129.
1675. *Sept.* 6. His Commiſſion to Juſtices of the Peace for *Kingſton*.——Fol. 129.
1675. *Feb.* 9 His ſpecial Commiſſion to try a Murther in *Long-Iſland*.——Fol. 129.
1676. *May* 13. His ſpecial Summons for the Conſtable of *Hempſted* to appear at *New-York*.——Fol. 130.
1676. *July* 1. His Commiſſion to a Sheriff in *Long Iſland*.——Fol. 130.
1676. *Oct.* 14. His Commiſſion appointing Mayor, Aldermen and Sheriff of the City of *New-York*, Fol. 131.
1676. *Dec.* 1. His Warrant to take up ſtray Cattle in *Long-Iſland*.——Fol. 132.
1678. *Sept.* 6. His Commiſſion to the Magiſtrates at *Schanectady*.——Fol. 132.

All which ſhew that *he* exerciſed *exactly* the ſame Authority in the *Duke's* Name, in *no other* Manner, in the *Body* of the Province of *New-York*, than what he did, in ſo many *Hundreds* of Inſtances, in that *Dependency*, *Delaware*.

Mar. 5. At a *Court* in *Newcaſtle*, held before the Juſtices and Sheriff, upon *William Pierce*'s Petition to have a Re-ſurvey, and Grant in his own Name, of two Tracts of Land containing 500 Acres, on *Weſt* ſide of *Delaware* River and on North ſide of *Duck Creek*, heretofore granted by Patent from Governor *Andros* to Perſons who have ſince deſerted, his Petition is *granted*, he paying the former Quit-Rents and all other Charges; and upon *John Cox*'s Petition of the like kind, for 200 Acres on the South ſide of *St. George*'s *Creek*, the like *Order* made by the Court.——*Newcaſtle* Records, N° 11. Fol. 72.

Mar. 29. From the *New-York* Records, Governor *Andros*'s *Order* upon a Petition of *Cornelius Janſen* of the *Whorekill*, That *Kilmanus Wooltbank* put the Petitioner upon a Piece of Land in thoſe Parts, for three Years, pretending that it was his; and at the End of the Term warned the Petitioner off, altho', as the Petitioner is informed, he has no Right thereto or Patent for the ſame; and therefore the Petitioner prays, *ſince it is at his Royal Highneſs's Diſpoſal*, and having wrought ſo long upon it, that he ſhall enjoy it; the Magiſtrates at the *Whorekill* are to examine and make Report of the Matter, and if it be as alledged, the Petitioner to continue in Poſſeſſion till further Order.——*New-York* Records, N° 1. Fol. 107.

Apr. 23. From the *Newcaſtle* Records, an Entry made of a *Letter* ſent by the Juſtices of the Court to the Governor at *New-York*, acquainting him that one *Wallis* left a Cheſt of Goods well lockt, and put into the Houſe of *Hutchinſon*, and, coming to fetch it away, found it had been broke open and lockt up again, and many Goods taken out of it; after three ſtrict Examinations *Hutchinſon* has confeſt, before us, that he ſtole the ſaid Things, and Search being made, there is found in *Hutchinſon*'s Houſe moſt of the Things; *Hutchinſon* has been five Days kept cloſe Priſoner in our Fort; *we deſire the Governor's Orders* and Directions, after what manner we are further to proceed, which ſhall be ſtrictly *obſerved* by us.——*Newcaſtle* Records, N° 11. Fol. 73.

May 4. From *Newcaſtle* Records, *an Indian* Deed of Sale, whereby *Mechaeckſitt*, chief *Sachem* of *Cohanſink* and ſole *Indian* Owner and Proprietor of all that Tract of Land called by the Chriſtians *Bompies Hoeck*, and by the *Indians Newſink*, in conſideration of a Gun and ſome other Matters, grants to *Peter Bayard* of *New-York*, all that Tract of Land called *Bompies Hoeck*, lying on the *Weſt* ſide of *Delaware River*, *and at the Mouth thereof*, beginning at a great Pond and a little Creek iſſuing out of the ſaid Pond, being the uppermoſt Bounds of the ſaid Land, and ſtretching down along the ſaid River to *Duck Creek*, including all the Land, Woods, Marſhes, *&c.* between the ſaid uppermoſt Pond and Creek, and *Duck Creek*, to hold to *Peter Bayard* in Fee, to his own ſole Uſe. *Note*, This Deed is witneſſed by *Ephraim Herman* Clerk, who was one of the two Perſons that the Governor had ordered to purchaſe the Lands of the Natives, ſo that (by that Circumſtance) it ſhould ſeem to have been purchaſed by Governor *Andros*'s Order.——*Newcaſtle* Records, N° 11. Fol. 75.

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May 19. From the *New-York* Records, the Entry of a *Letter* to the Magiſtrates of *Newcaſtle*, which is ſigned in *New-York* by *Matthias Nicolls*, and is there ſaid to have been *by the Governor's Order*; ſays the Governor has received theirs of 23 *April*, about *Hutchinſon*'s Theft, By the Governor's Command I am to acquaint you this Fact could not reach *Hutchinſon*'s Life, by the Strictneſs of Law, if it were in *England*, *and the Duke's Laws* are much more favourable, as you'll ſee if you turn to the Capital Laws; he reaſons about the Nature of this Crime, and its Puniſhment, but the Governor leaves the whole to your Court to judge and determine, and to put your Sentence in Execution.——In the Caſe between *Harwood* and *Vanderveere*, concerning the Stone put in the Bag of Feathers, it's the Governor's Pleaſure that there be *no further* Proceedings *in your Court*, his Honour has remitted the *Fine*, and a *Stop* is to be put to the levying the *Charges*, the whole Caſe being order'd to be heard, *in this Place*, before the Governor and Council in *October* next, when both Plaintiff and Defendant are to give their Attendance here.——As to the Difference, *before your Court*, about the Pretence of *Land* between *Vanderveere* and *Teneman*, the ſame is, alſo, to be remitted *here*, with all Papers or Proceedings relating thereto, for a *final Determination*.——*Laurentius Carolis* complains that an *Execution* againſt him has, for the greateſt part, been levied by the Sheriff, and the Remainder called for, tho' he has Judgment for a greater Sum againſt the ſame Perſon *Hans Paterſon*; it's an old Difference about a Mare: The ſame is, alſo, to be *reſpited*, and his Excellency deſires an Account how that Matter ſtands between them, whereupon a *definitive Order* will be given to determine the Matter in Difference between them. Thus far I have in Charge from his Excellency the Governor to transfer to you.—*New York* Records, N° 1. Fol. 107.

A Copy of the foregoing Letter is alſo in——*Newcaſtle* Records, N° 11. Fol. 73.

May 24. From the *Newcaſtle* Records, a *Return*, this Day made, by *Edmund Cantwell*, of his having, by virtue of a Warrant from the Court of *Newcaſtle*, which was dated the 8th of *November* laſt, laid out for *Englebert Lott*, two Lots of Ground at the North-eaſt End of *Newcaſtle* Town, *where the old Fort ſtood*.——*Newcaſtle* Records, N° 11. Fol. 71.

May 31. An *Order* ſigned by Governor *Andros*, for *Peter Gronendike* at the *Whorekill*; according to the Order and Judgment of the Court of Aſſizes, Coſt of Suit, or Court-charges only, to be paid; which being ſatisfied *here*, the Party is not to be moleſted by *Henry Smith* or any other, on account of any *other* Charges of ſaid Suit.——*New York* Records, N° 1. Fol. 108.

1679, *June* 4. *At a Court* held in the Town of *Newcaſtle* before the Juſtices, they granted Liberty to ſeven Petitioners, *Fabian Orme*, *Chriſtopher Ellitt*, *John Daſton*, *Elias Brown*, *Thomas Snelling*, and *Thomas Broſcum*, to take up 200 Acres each, and to *Benjamin Gumley* 300 Acres, in all 1500 Acres of Land, within that Court's Juriſdiction, not before granted, taken up or improved by any other; they ſeating and improving according to the *Governor's Orders* and Regulations.——*Newcaſtle* Records, N° 11. Fol. 70.

June 6. *A Letter* from *New-York*, ſigned by *Matthias Nicolls*, [who was Secretary] and writ, by the Governor's Order, to the Magiſtrates of the *Whorekill*, giving them an Account of the Anſwers given, upon ſeveral Requeſts which had been made to him by particular Perſons of their Parts, and his Approbation of ſeveral Matters recommended to him by their Court, which had been (alſo) inſerted or indorſed upon the Requeſts, or upon the Orders of their Court ſent back to the Parties concerned.——In the Matter between *Woolbank* and *Johnſon*, concerning which the Court had certified their Report, the ſame was to be *allowed* by Order of the Governor, and to be confirmed to *Woolbank*.——On *Verhoof*'s Petition to your Court to be allowed *Clerk*, and about *Fees*, which is certified to be granted by ſaid Court, upon *their* Recommendation the Governor allows it, and Fees of extraordinary Courts to be aſcertained.——All *Fees* to be collected, as by Execution.——Upon the Court's Choice and Recommendation of *Verhoof* to be *Surveyor* at the *Whorekill*, the Governor orders him to be confirmed.——Upon *Kipſhaven*'s Petition to the Governor for a Piece of waſte *Land*, the Governor has granted the ſame (if as alledged) and to be ſurveyed in order to a Patent.——Upon *Vine*'s Petition to the Governor to officiate as Sheriff at the *Whorekill* and *Precincts*, the Governor returned the following Anſwer. Upon Security and Court's Choice, *allowed and confirmed.*——Upon *Clark*'s Petition to the Governor, of the Uncertainty of *Surveyors Fees*, he *orders* the Price of Surveys be, at the *Whorekill*, &c. as in *Virginia* or *Maryland*.——A Magiſtrate of the City of *New York* unadviſedly took an Oath of one *Taylor*, concerning *Fees* which he claimed for ſurveying at the *Whorekill*, the Magiſtrates *of this City* having nothing to do in any *other* Parts of the Government out of *their* Precincts, and the ſaid Oath being taken contrary to Law, you are to take no Cognizance thereof, and by no means to admit it as a Proof or Evidence for *Taylor*.——*New-York* Records, N° 1. Fol. 109.

June 10. From the *New-York* Records, the Governor's *Letter*, ſigned by him, and dated in *New-York*, directed for the Magiſtrates or Court of *Newcaſtle*, owning the Receit of theirs of the 4th Inſtant, which had exclaimed againſt him, as having *improperly* remitted *Vanderveere*'s Fine, in the Caſe between *Harwood* and him, which had been determined by their Court. And he *orders*, that their Clerk, or ſome other in their behalf, and *Harwood* and *Vanderveer*, repair and attend at *New-York* for a Hearing of the Caſes they mention, to ſatisfy themſelves and others, and that, tho' it has *not* been *lately*, it is *no wrong*, if Re-hearings be *from them*, as well as *other ſubordinate Courts*, tho' for the meaneſt Subject.——*New-York* Records, N° 1. Fol. 110.

July 2. From *Newcaſtle* Records.——The Court there make and ſign a Writing, impowering Mr. *John Moll*, Capt. *Edmund Cantwell* and the Clerk *Ephraim Herman*, to appear in behalf of the Cour, before the Governor at *New-York*, as well in Defence of the Court, and the Orders and Sentences by them paſt, as alſo in all Humility to requeſt Privileges, and to repreſent Grievances and deſire that they may be removed, *&c.*——*Newcaſtle* Records, N° 11. Fol. 77.

July 8. Governor *Andros*'s *Commiſſion*, dated in *New-York*, appointing *Philip Pocock Surveyor* to ſurvey and lay out Tracts of Land below the Falls of *Delaware* River, on the Weſt-ſide, for ſeveral Perſons lately come out of *England* and deſtitute of Land, to take ſuch *Fees* as in *Maryland*, and to make due Returns of ſuch Surveys for the Confirmation.——*New-York* Records, N° 1. Fol. 110.

Aug. 20. From *New-York* Records, the Entries of *three Grants* from Sir *Edmund Andros*, viz.——1. For Land laid out for *Joſiah Barkſtead*, by the Approbation of the Court at the *Whorekil's*, on the Weſt-ſide of *Delaware* Bay, and on the South eaſt ſide of *St. Jones Creek*, containing 800 Acres as by Survey, Quit-Rent 8 Buſhels.—2. For Land, in *Delaware* Bay, in *the Woods*, near unto *Rehobah Bay*, diſtant from the *Whorekill about ten Miles*, unto *Francis Meggs* and *John Colley*, containing 600 Acres, as by Survey, Quit-Rent 6 Buſhels.——3. For Land in *Delaware* Bay, and being upon *Rehobah Bay*, diſtant about *eight* Miles *South* from the *Whorekills*, which had been laid out by Approbation of the *Court* at the *Whorekills* for *John Okey*, and bounded, partly by *Timothy Love*, containing 400 Acres, Quit-Rent 4 Buſhels.——*New-York* Records, N° 3. Fol. 67.

Same Day. *Another Grant* from him, to *Andrew Deprie*, for Land in *Delaware* Bay, near unto *Rehobath Bay*, on the North-ſide thereof, bounded, partly, by *John Avery*, containing 400 Acres, Quit-Rent 4 Buſhels.——*New-York* Records, N° 3. Fol. 68.

Same Day. Alſo *two more Grants* from him, 1. To *Robert Hignat* and *John Crue*, of Land already ſeated in *Delaware* Bay, near unto *Rehobah Bay*, about *four* Miles to the *South* of it, called *Weſtcheſter*, containing 900 Acres, Quit-Rent 9 Buſhels.——2. To *Robert Bedwell*, of Land on the Weſt-ſide of *Delaware* Bay, and on South-Eaſt-ſide of *St. Jones Creek*, bounded by the *Cypreſs* Branch, and *Chaptank* Road, *&c.* containing 800 Acres, Quit-Rent 8 Buſhels.——*New-York* Records, N° 3. Fol. 69.

Nov. 20. *Four more Grants* from Governor *Andros*, dated in *New York*.——1. To *Peter Teſchermaker*, for a *Town Lot* in the Weſt End of *Newcaſtle* Town, Quit Rent, one Buſhel.——2. To *Matthias* and *Amilius de Ring*, for another *Town Lot* at the Weſt End of *Newcaſtle* Town.——3. To *Hendrick Vanderburgh*, for another Town Lot in *Land* Street in *Newcaſtle* Town, Quit Rent, one Buſhel.——4. To *Thomas Jacobſon*, and two others, of Land on the *Weſt* Side of *Delaware* River, called *Red Clay Point*, on the North, and North Weſt Side of *Bread and Cheeſe* Iſland, and more than half compaſſed with a Branch of *Chriſtiana Creek*, called *Red Clay Creek*, containing 248 Acres, Quit Rent, two Buſhels and an Half.——*New York* Records N° 3. Fol. 70.

Same Day. *Three more Grants* from Governor *Andros*.——1. To *Bryan Omella*, for ſome improved Land, on Weſt Side of *Delaware* River, on North Side of *Apoquimine Creek*, in the *Drawers* Creek, containing 400 Acres, Quit Rent, four Buſhels.——2. To *Maurice Daniel*, of Land on *Weſt* Side of *Delaware* Bay, on North Weſt Side of *Apoquemini Creek*, containing 190 Acres, Quit Rent, two Buſhels.——3. To *John Moll*, of three Town Lots in *Newcaſtle* Town, late Captain *John Carr*'s, and ſince ſold at publick Outcry, in *Warmors* Street, *Harte* Street, *Land Street and Minquaes* Street, Quit Rent, two Buſhels.——*New York* Records N° 3. Fol. 71.

Dec. 3. An *Entry* in the *Newcaſtle* Records, that *Hendrick Williams petitioned* the Court, ſhewing, that, according to this Court's Anſwer to his former Petition, the third of *April* laſt, concerning his two Judgments, and Executions againſt the Eſtate of *Walter Wharton*, deceaſed, he had petitioned the Governor at *New York*, who gave for Anſwer, he thought it but Reaſon the Petitioner ſhould be paid his Debt out of the Eſtate of *Wharton*; wherefore the Petitioner prays an Order, with *Preference*, againſt *Wharton*'s Eſtate, *ordered, ſince the Governor is of Opinion* he ought to be paid, that he be paid, accordingly, out of *Wharton*'s Eſtate; but *no Preference* to be allowed, unleſs——*the Governor* ſhall think fit ſo to order it.——*Newcaſtle* Records, N° 11. Fol. 78.

Feb. 4. An Entry of *a Letter*, from the Juſtices at *Newcaſtle* to the Governor——with the Requeſt of ſeveral Planters, Inhabitants of that County, who owed Quit Rents in *Wheat*, and were threatened by the Receiver, but had no *Wheat* to pay, only *Tobacco*; praying, that that might be taken at a reaſonable Price, *to be ſet by the Governor*, it being taken in the neighbouring Colonies at 2 *d.* a Pound, otherwiſe, ſeveral muſt forfeit their Lands.—They, likewiſe, deſire to have *a Rule*, whether *Arrears* of Quit Rents, due for forfeited Lands, muſt be paid by the *new* Poſſeſſor, when new granted.——Deſire Directions about an old Man who had been employed to look after the *Fort*.——Alſo, whether the *Fort* ſhould be repaired, and how the Means for it ſhould be found.——A new Commiſſion being coming *from the Governor*, and one of their Magiſtrates being going to *England*, they preſent the Names of *two* Perſons, as fitteſt to be put in the Commiſſion in *his* ſtead, if the Governor thinks fit.——They deſire the *County* may be *enlarged* up and downwards, as far as *St. Jones*'s.——*Newcaſtle* Records N° 11. Fol. 79.

Mar. 2. An *Entry*, that one *Randal* preſented a Petition to the Court, ſuggeſting, that he bought 300 Acres of one *Teſt* in *St. George's Creek*, for which he paid the Quit Rent laſt Year, and is willing to pay it this, but is informed the Court had eſcheated it, for want of Settlement; and, as he had been a Priſoner in *Turkey*, deſired to have the Land again; upon examining the Caſe, the Court find the Land was thrice ſold, but never any Improvement made, which is contrary to Law, and therefore eſcheated; and, ſince the Court cannot lawfully recall their former Grant and Order therein, to *Rolf Andrews* and another, they, therefore, *refer the Petitioner to the Governor at* New York, for *his* Order and Determination therein.—*Newcaſtle* Records N° 11. Fol. 81.

1630, *May* 24. From *New York* Records, the Duke of *York*'s *Commiſſion*, dated at *Windſor*, authoriſing and appointing *John Lewin*, Gent. to be his *Agent and Servant*, in *New York* and *Albany*, and *other* the Duke's Lands and Territories in *America*; to proceed thither, and to enquire and find out all the Eſtate, Rent, Revenues, Profits, and Perquiſites, which in any Sort did of Right belong, and appertain to the Duke, and ariſe in any of thoſe Places, and to examine all Books, Papers, Records, and other Matters relating thereto; with Power to demand, from all the Duke's Officers and Servants, or any others employed in any Place of Truſt belonging to the Duke, all Books, Papers, Writings, Records, Regiſters, Accounts, and all other Things tending to the Diſcovery thereof; and, in a more eſpecial manner, to enquire and find out, whether *the free Trade* of any the Inhabitants of thoſe Places, or any Merchants trading thither, now is, or *has been*, obſtructed or hindered, and by what means, and how ſuch Obſtructions may be removed, and by what Methods the Trade and Traders in thoſe Places may be encouraged and encreaſed; it being the *Duke's* real Intention and Deſire to encourage and advance the Eaſe, Benefit, and Advantage of *Trade*, and the Merchants and Inhabitants there; and for the better executing of this Truſt, which the Duke repoſes in him, he is to obſerve and follow ſuch Directions and Inſtructions as he received with that Commiſſion.—*New York* Records N° 1. Fol. 112.

Note, This Commiſſion is likewiſe entered in the Records of *every one* of the three Lower Counties, *viz.* in——*Newcaſtle* Records, N° 11. Fol. 82. In——*Kent* Records, N° 14. Fol. 8. And in——*Suſſex* Records, N° 17. Fol. 10.

May 28. *Entries* in the *New York* Records, of *four Commiſſions* granted by Governor *Andros*, dated in, and ſealed with the Seal of, *New York*.——1. To five Perſons to be *Juſtices*
28. *of the Peace*, in the Juriſdiction of *Newcaſtle*, and the Dependencies, and three, or more of them, to be a *Court of Judicature* for one Year.——2. To five more Perſons to be
28. *Juſtices of the Peace* in the Juriſdiction of *Upland Court, or County*, in *Delaware* River and Dependencies, (which is the firſt Inſtance that we have of a Commiſſion in this
28. *New* County of *Upland.*)——3. To four more Perſons to be *Juſtices of the Peace*, in the Juriſdiction of the County of *St. Jones*, in *Delaware* Bay and Dependencies; the ſame to begin from the South Side of *Duck Creek*, ſo to extend to the North Side of *Cedar Creek*.—4. To five more Perſons, *viz. Luke Watſon*, *John Roads*, *John Kipſhaven*, *Otto Woolaſt*, and *William Clarke*, to be *Juſtices of the Peace*, at the *Whorekill and Dependencies*; the ſaid Court to begin at the South Side of *Cedar Creek*, and ſo to go *downwards*.——*New York* Records, N° 1. Fol. 113.

June 1. The Governor's *Certificate and Dedimus*, dated in *New York*, importing, that *John Roads*, one of the Juſtices of the *Whorekill* Court, having taken his Oath for the ſame, the Governor authoriſed *him* to adminiſter the Oaths to the *other* Magiſtrates.——*Suſſex* Records, N° 17. Fol. 11.

Same Day. The Governor's *Order*, dated in *New York*, reciting, that there was, heretofore, granted unto *John Morgan*, and *John Denny*, 300 Acres each, on the *Weſt* Side of *Delaware* River, towards the Mouth thereof, near *Duck Creek*, which have never been improved, and the Perſons are dead; now, upon Application of *Ephraim Herman*, that he may have the ſaid two Pieces, I hereby grant the ſame, to be confirmed to him by Patent, when the old Patents ſhall be deliver'd in.—*New York* Records, N° 1. Fol. 113.

Same Day. The Governor's other *Order*, alike to the former in all Reſpects, being in Favour of *Lauſa Cock*, for 600 Acres on the *Weſt* Side of *Delaware* River, and on the North Side of *Duck Creek*.—*New York* Records, N° 1. Fol. 113.

June 12. The Governor's Warrant, dated in *New York*, directed to Captain *Edmund Cantwell*, Sheriff of *Newcaſtle* on *Delaware*, requiring him to ſummon *Jacob Young*, to appear perſonally before the *Governor*, and his Council, to anſwer for preſuming to treat with the *Indians*, within *this* Government, without any Authority, to the Diſturbance thereof.——*New York* Records, N° 1. Fol. 114.

Same Day. Governor *Andros*'s *Commiſſion*, dated in *New Jerſey*, authoriſing *Ephraim Herman* to be *Surveyor* for *Newcaſtle*, and Precincts, as alſo for *St. Jones*, and Dependencies, to lay out Land, as a Surveyor ought to do, in Places not taken up, according to ſuch Warrants as you ſhall receive from *myſelf*, or, upon extraordinary Occaſions, to fit Perſons as ſhall apply for the ſame; of which, to make due Returns *to the Secretary's Office at* New York, according to Law.——*New York* Records, N° 1. Fol. 114.

This Commiſſion is alſo entered, being there recorded by Order of Court, of 3 *November* following, in—*Newcaſtle* Records, N° 11. Fol. 85.

June 17. A Special *Court* was held for the *Whorekill*, for the Eſtabliſhment of the *new Juſtices*, and they were there ſworn by Mr. *John Roads*, whom the Governor had before qualified and authoriſed thereto.——*Suſſex* Records, N° 17. Fol. 11.

July 10. An *Original Indian Deed* of Sale, (upon Half a Sheet of Paper) whereby *Kanockere*, *Alom*, *Eliggene*, *Nogcotto*, *Towis*, *Wippaycam*, and *Winappanegge*, for themſelves, and their Heirs, alienate, bargain, and ſell, unto Mr. *John Moll*, of the Town of *Newcaſtle* upon *Delaware* River, *in the Behalf of all the Inhabitants* dwelling at *Caſe and Broett* Iſland, *Red Clay Creek*, and *White Clay Creek*, quite unto the *Falls* thereof, which are already ſettled, and ſhall ſettle hereafter, upon any of the ſaid Lands about *Chriſtiana Creek*, as far as the Precincts of *Maryland*, the Land called *Muſſer Cripple*, therein included; to hold, free of the Claims of all *Indians*, and their Heirs; and that, for a valuable Conſideration, in real Satisfaction, paid to the *Indians* by the ſaid *John Moll*, as well for his own proper Account, as alſo for the proper Account of all the preſent, and all future Settlements, and Inhabitants, in all thoſe Parts. Given under our cuſtomary Mark in *Newcaſtle*, 10 *July*, 1680.——*Penſilvania* Exhibits, F. F.

Note, *John Moll*, the Grantee, appears to have been one of the *Juſtices* of *Newcaſtle*, as long as they had had any Commiſſions from the *Duke* of *York*; and generally, at the *Head*, or firſt, of the Commiſſion; and the above Deed appears to be witneſſed by *J. de Haes*, who alſo appears to have been, very long, one of the *Juſtices* of *Newcaſtle*.

Aug. 21. A Meeting of the *Juſtices* was held in *Newcaſtle*, when they writ a *Letter* to the Governor at *New York*, and ſent it by *Ephraim Herman*, their Clerk, in relation to Captain *Collier*'s Account, (who ſeems to have had a Demand upon the Publick.) They tell the Governor there was never any *other* Tax, or publick Levy laid at *Newcaſtle*, than in 1677. which was with *his own* Approbation, and on Account of the Wolves Heads; and at the ſame time were collected the *Fines*, whereof an Account was then alſo ſent him.——We have peruſed Captain *Collier*'s Accounts, the Article therein for Wolves Heads the Sheriff will pay; as alſo for repairing the Dyke, the ſeveral Perſons will pay; and for the reſt of Captain *Collier*'s Account, we know not which way it may be paid, having now, nor before, any Caſh, or publick Store to pay the ſame. The 25 *per Cent.* charged by Captain *Collier*, for collecting the Wolf, the Dyke, and Fine Money, we *deſire the Governor to regulate*, as *he* ſhall think juſt and equitable.——*Newcaſtle* Records, N° 11. Fol. 83.

From

1680, *Aug.* 26. From *Kent* Records, a *Warrant* ſigned by their Clerk, and directed to *Cornelius Verhoof* the Surveyor, that it was granted to lay out for—*Raynier Williams*, and *Johannes Kypp*, the Quantity of 800 Acres of Land, in any Part of that County, or Precincts, not already granted, and to make Return of the Certificate of the Survey of the ſaid Land into the Office in ſix Months, it being formerly granted from the Court.——*Kent* Records, N° 14. Fol. 16.

Sept. 22. At a *Court* held before the Juſtices for the County of *St. Jones's*, it being proved in Court, that *Robert Willing* had abuſed *his Royal Highneſs's Juſtices* of the Peace, by ſaying he wondered the Duke of *York* was ſuch a Fool, as to make ſuch inconſiderable Sons of Whores Juſtices, the Court condemn him to pay 500 Pound of Tobacco to the Uſe of the Publick, and to be bound over to the Peace for a Year and a Day, and pay the Coſts.——*Kent* Records, N° 14. Fol. 9.

Oct. 4. *Two Warrants*, or Orders, ſigned by Governor *Andros*, the one directed to the Magiſtrates of the Court of *Newcaſtle*, the other to the Magiſtrates of the Court of *Upland* in
4. *Delaware* River; he ſays, that being informed of ſome Differences, in paſſing Captain *Cantwell*, the Sheriff of *Delaware*'s Accounts, for collecting the Aſſeſſments, Amerciaments, and Fines, there is allowed to the petty Conſtable 12*d.* to the high Conſtable 6*d.* and to the Sheriff 6*d.* in all, 2*s. per* Pound, according to the Directions in the Law, which he is to have accordingly, and no more, notwithſtanding any greater Latitude formerly given, upon Miſinformation, contrary to Law.——*New York* Records, N° 1. Fol. 118.

Note, This laſt Order is alſo entered in—*Newcaſtle* Records, N° 11. Fol. 84.

Oct. 4. Ano ther *Order* ſign'd by Governor *Andros* at *New York*, reciting, that by the Accounts of Captain *Cantwell*, Sheriff of *Delaware*, there remains due to him for Diſburſement, 59*l.* 16*s.* 7*d.* ½. the Governor orders *Ephraim Herman*, Collector of the Quit Rents at *Delaware*, to pay *Cantwell* that Sum, out of Arrears due for Quit Rents from *Cantwell*, and others in ſaid River, particularly for two Parcels of Land of 800, and 900 Acres in *Apoquinemen*, formerly taken up, and patented, by *Cantwell* in the Year 1676.—— *New York* Records, N° 1. Fol. 118.

Oct. 5. From *New York* Records, the Entry of a moſt *Solemn Court of General Aſſize*, held in that City, which being opened, &c. they proceeded to try the following Cauſe.—*John Stevens*, Appellant; *John Richardſon*, Defendant. An *Appeal* from a *Verdict* and *Judgment* given at the Court of the *Whorekill*, in *Feb.* 1679. for the Defendant, for *Title of Land*, called *Willingbrook*, firſt ſurveyed for, ſeated, and improved by the Defendant; upon full Hearing of Proceedings of ſaid Court, and what could be alledged by both Parties, their Evidences and Proofs, *the Court confirms* the ſaid Judgment, and that the Defendant have and enjoy all the Land he hath ſeated and improved, with the Buildings thereon; the Appellant to pay Coſts.——*New York* Records, N° 1. Fol. 115.

Oct. 6. Alſo, at the ſame Court of Aſſizes, the next Day.——*Peter Gronendike*, Appellant; *John Vines*, Defendant. An *Appeal*, from a Verdict and Judgment obtained by the Defendant againſt the Appellant at a Court held at *Deale*, [this was formerly *Whorekill*, but now named *Deale*—as you'll ſee when you come to the 15th of *December*,] for the Town and County of *Deale*, the 15th of *June* laſt, on *an Action* commenced by the Appellant againſt the Defendant, as *Sheriff*, for Refuſal to give him Satisfaction for an Execution, by him levied on the Eſtate of *John Avery*, according to an Order of the Governor and Council, and neglecting to perform his Office and Duty therein, which the Defendant pleaded he had done according to Law; Proceedings of ſaid Court, with ſeveral Depoſitions read, and Parties fully heard, and Matter debated.——The Court give their *Judgment*, that the Defendant, as Sheriff, has fully performed his Office and Duty therein; therefore, *confirm* the ſaid Judgment given at *Deale* Court. The Appellant to pay all Coſts.——*New York* Records, N° 1. Fol. 116.

Alſo Mr. *John Moll*, Juſtice of the Peace, *and Preſident of the Court* at *Newcaſtle*, being called to anſwer an *Indictment* exhibited againſt him, by one *Abraham Mann*, for Words ſpoken in Court, and at other Times, to which *Moll* pleaded not guilty; and a Jury being impanelled and ſworn, with ſeveral Evidences, they brought in their *Verdict*, and found him guilty of ſpeaking the *Words*, in the firſt and ſecond Articles, and of denying Execution, when demanded, mentioned in the 4th Article, and for the reſt, not guilty.——Which the Court taking into Conſideration, do adjudge the ſaid Indictment to be illegal and vexatious, and that *Moll*, by what found againſt him, is not guilty of *any Crime*, or Breach of any known Law, therefore, acquit *Moll* from the ſame, and order *Mann* to pay the Coſts of Court.——*Mann* moved for an Appeal for *England*, which is granted, he giving ſufficient Security to the Value of 1000*l.* to proſecute the ſame, and pay Damage to the Party, if caſt.——*New York* Records, N° 1. Fol. 117.

Oct. 11. The Governor's Warrant, to lay out Lands at *Delaware*, dated at *New York*, reciting, that *John Richardſon* having obtained, at the Court of Aſſizes, a Judgment for the Land he had ſeated and improved, and having a conſiderable Number of Hands, therefore to lay him out 1200 Acres thereto adjoining.——Alſo to lay out to *John Stevens* 1200 Acres of Land adjoining, and to make Returns of the Surveys, in order to Confirmation, according to Law.——*New York* Records, N° 1. Fol. 118.

Nov. 13. Copy of *Minutes* of the Governor and Council at *New-York* of this Date, entred in the *Suſſex* Records, purporting to have been made upon an Application of the Magiſtrates and Court of the *Whorekill*, ſignifying the Neceſſity and Want of a *Court-houſe*, *Priſon*, *Stocks* and *Whipping-poſt*, for the Publick Service, and deſiring *to be impowered* to rate the Inhabitants there to pay for the ſame. *Granted* for the Priſon and Stocks, for which they are to make an equal *Rate* according to Law.—*Suſſex* Records, N° 17. Fol. 10.

Nov. 15. From the *New York* Records *a Letter* from Governor *Andros* in *New York* to the Magiſtrates and Court at the *Whorekill*, and *St. Jones*, with an Entry that the like Letter was ſent to the ſeveral Magiſtrates and Courts in their reſpective Precincts *throughout* the Government——Telling them that he had received Orders, and was going for *England*; upon which he had ſent, and ordered a General Court or Meeting of the Juſtices, to be at *New York* the 17th Inſtant, *excuſing them* by reaſon of the Diſtance and Seaſon of the Year; alſo that he deſigned to leave *Captain Brockholes* his Lieutenant, as laſt time; likewiſe that Mr. *John Lewin*, a Gentleman ſent by the *Duke*, was arrived, authoriſed to inſpect the *Revenue*, as by his Commiſſion, of which the Governor ſends them a Copy.——*New York* Records, N° 1. Fol. 119.

Note, a Copy of this Letter is alſo entred in——*Suſſex* Records, N° 17. Fol. 13. and another Copy of the like Letter, only dated the 23d of *December*, is entred in—*Newcaſtle* Records, N° 11. Fol. 86.

Nov. 17. From the Records in *Kent* County, Entry of the *Acts of Court* held before the Juſtices for *St. Jones*'s County, upon the ſeveral Petitions of the after-named Perſons, the Court grants to them, ſeparately, Liberty to take up, within the Limits and Precincts of their Court: Then they name 16 Perſons, and the Quantity of Land, for them all, amounted to 9500 Acres; And the Court makes an Order, that all Perſons taking up Lands, in Default of Settlement and Improvement within *one Year* after the Date of the Survey, ſhall forfeit their Intereſt in the ſame.——*Kent* Records, N° 14. Fol. 10.

Dec. 15. *An Act of the Court*, entred in the *Suſſex* Records, for that the *Governor of New-York* has made an *Alteration* of the *Name* of this Town and County, and inſtead of the *Whorekill* to be from *henceforth* called by the Name of *Deal*; The Court orders and decrees that it be *ſo* called from this Day.——*Suſſex* Records, N° 17. Fol. 14.

Dec. 21. From the Records in *Kent* County, Entry of the *Acts of Court* held before the Commiſſioners for *St. Jones*'s County; whereby, on the Petitions of ſundry Perſons, the Court grants to each of them Liberty to take up, within the Limits and Precincts of that Court, the Quantities of Land there ſpecified, naming 33 Perſons, and the whole Quantity amounts to 18,663 Acres.——And on the Petition of *Verhoof*, that by an Order of the *Whorekill* Court of the 11th of *February* laſt, he was to have his Land ſurveyed again; but ſince that the Governor was pleaſed to divide *St. Jones* from *Whorekill* County, and the Survey not being accompliſhed before the Diviſion, he prays this Court to order a Confirmation of the Order of the *Whorekill* Court; and accordingly the Court does confirm it, and the Petitioner is to have his Lands ſurveyed.——Likewiſe a Letter of Attorney from *Nicholas Bartlet* of *St. Jones's* County *in the Province of* New York, to his Wife, was this Day acknowledged in open Court and entred.——*Kent* Records, N° 14. Fol. 11, 12.

Dec. 30. *A Grant* from Governor *Andros*, to *Peter Gronendike*, for Land on *Weſt* Side of *Delaware* Bay, and on *North* Side of *Murder-Creek*, containing 413 Acres, Quit-Rent 4 Buſhels.—— *New York* Records, N° 1. Fol. 114.

Jan. 1. From *Suſſex* Records Entry of *Acts of Court* held before the Commiſſioners relating to the *Court-houſe*, Stocks, Priſon, &c. which the Governor of *New York* ordered to be built for the Service of the ſaid Country.——And, *upon the Complaint* of *Parret* the *Indian* Schackamaker, alledging, *that Henry Bowman* and others *takes his Land*, and gives him no Satisfaction for it, the Court orders that every Perſon that ſeats any Land, ſhall pay the *Indian* Proprietor; for 600 Acres or under, one Match-coat; and, if above 600 Acres, two Match-coats; and, at the time of the *Indian's* receiving the Coats, he is to convey the Land to the Perſon he receives the Coats of; and if any Perſon refuſes to pay the *Indians* for the Land as aforeſaid, Execution to be given out for the ſame, directed to the Sheriff, to execute and pay to the *Indian*.——After which (at Fol. 16.) follow *ſeveral other Acts or Orders*, that ſeveral Certificates, which *Cornelius Verhoofe* this Day preſented to the Court to be ſigned and allowed by the Court, be certified, except two that have taken in other Perſons Lands.——*And two Entries* that *Parret* the *Indian* Shackamaker acknowledged in open Court, that he had ſold, unto *Henry Bowman*, the *Indian* Right of 1000 Acres and 700 Acres between *Slaughter-Branch* and *Cedar-Creek*.——*Suſſex* Records, N° 17. Fol. 14. and Fol. 16.

Jan. 31. Upon the *Kent* Records, a *Letter* from *Ephraim Herman* to (ſome) Gentlemen, complaining that ſeveral of the People refuſe to paſs their Bills for the Payment of the Surveyor's *Fees eſtabliſhed by the Governor*; and more, he admires that, as he hears, Clerks Fees are to be paid in *Tobacco* at 12*s.* 6*d. per* Hundred; It ſeems (ſays he) as if his *Royal Highneſs's Laws* were ſlighted or contradicted; and, for *any* to make Laws, or By-laws, *without the Governor, or Court of Aſſizes Law and Approbation*, is a Contempt of Authority, and I ſurpoſe it will be found ſo.——Sirs, The Law expreſly ſays that all Fees ſhall be paid in Silver, Beaver, Wampum, or Wheat; one of which I may, not only by Law, but alſo by the *Governor*'s diſtinct Order, inſiſt on; but, becauſe the Country does not plentifully afford the ſame, I am willing to take the Produce of the Country, which is Pork, at a reaſonable Rate, and ſhould be ready to take Tobacco, if it was like to be worth anything. If I am denied what the Law and Reaſon allows, I ſhall deſiſt for a while, and make the Caſe known *to the Governor* or his Deputy; I pray, Sirs, you would right me, where I am wronged, *it being your Places ſo to do*; I hope to be with you and attend at *March* Court next.

Mar. 4. Matters having paſſed in *America* as herein before ſtated, it was upon this Day that King *Charles* the Second granted, by Charter, the Province of *Penſilvania* to Mr. *Penn:* That was *not a ſudden* unadviſed Act, but went through, for nine Months before, a *very ſerious Examination* on the Part of the Crown; and not only ſo, but the *Duke of York*, and the *Lord Baltimore*'s Agents, were, from time to time, conſulted thereon. I would not ſo ſervilely adhere to the Regularity of giving *every* Paper according to its *Date*, as to intermix the Papers which, on this Occaſion, paſt in *England*, for nine Months now paſt, along with thoſe Papers of the ordinary Occurrences in *America*, in that Period of Time; but, as theſe Papers, preparatory to Mr. *Penn*'s Charter for *Penſilvania*, are exceedingly material, *almoſt every ſingle Word of them*, I, therefore, choſe to throw them all together, under this (*marginal*) Date, at the ſame time giving you the *real* Dates of all the ſame, and the Contents as follows, *viz.*

For the
The Humble Ad
Son to Sir W

Sheweth,

That having
in *Ireland* by the Oppreſſion of the Lord
deceaſe (though moſt of it remitted by
to borrow every Penny of it, by reaſon
England was under the Stop of the Ex
with the growing Intereſt of it, and 9 ye
for the Relief of his own, and his Mother's
Ruine.

He humbly prays that
that Princely Reſpect he of
his Compaſſion to the Afflicte
America, lying *North* of *M*
River, on the Weſt, limmit
extend as far as plantable,
he doubts not by his Intere
profitable Plantation to the
to raiſe that ſpeedy and ſufficient
Incumbrances, that he may
Debt of, at leaſt 11,000*l.* and be
and Time as ſhall be moſt

And

The foregoing *imperfect* Paper (one Half of it being worn away) remains in the Books at the Board of Trade, is ſpoke to by Mr. *Gellibrand*, as Mr. *Penn's original Petition* for a Grant of *Penſilvania*, and is the Exhibit, *Botra* N° 26.

1680. *June* 14. In the Council-Chamber, *Monday* the 14th of *June* 1680. Preſent Lord Preſident, Duke of *Albemarle*, Biſhop of *London*, Mr. Secretary *Jenkins*, Sir *T. Chichley*: *The Petition* of *William Penn*, referred by an Order from the Earl of *Sunderland* of the *firſt* Inſtant, is read, praying, *in Conſideration of Debts* due to him, or his Father, from the Crown, to grant him *Letters Patent*, for a Tract of Land in *America*, lying *North* of *Maryland*, on the *Eaſt* bounded with *Delaware* River, on the *Weſt* limited as *Maryland*, and *Northward* to extend as far as plantable; *Whereupon*, Mr. *Penn* is called in, and, being asked, what Extent of Land he will be contented with *Northerly?* declares himſelf ſatisfied with three Degrees to the *Northwards*; and that he is willing, in lieu of ſuch a Grant, *to remit his Debt*, due to him from his Majeſty, or ſome Part of it, and to ſtay for the Remainder till his Majeſty ſhall be in a better Condition to ſatisfy it: Upon the whole Matter, it is ordered that Copies of his Petition be ſent unto Sir *John Werden*, *in behalf of his Royal Highneſs*, and unto the Agents of the Lord *Baltemore*, to the end they may report how far the Pretenſions of Mr. *Penn* may conſiſt with the Boundaries of *Maryland*, *or the Duke's Propriety of* New York *and his Poſſeſſions in thoſe Parts.*——This Exhibit is proved by Mr. *Gellibrand*, and is *Botra*, N° 6.

1680. *June* 14. To Sir *J. Werden* about *William Penn*. Council-Chamber, 14th *June* 1680. Sir, the Right Honourable the Lords of the Committee for Trade and Plantations having received a Petition of *William Penn*, referred unto them by an Order from his Majeſty, concerning a Tract of Land in the *North* Part of *America*, which he would undertake to ſettle, and render it a profitable Plantation to the Crown; But their Lordſhips have not thought to take any Reſolution thereon, before they had firſt conſulted you in relation to the *Propriety of his Royal Highneſs in thoſe Parts*; and do therefore command me to ſend you a Copy of his Petition, here incloſed, with their Deſire, that you would report unto them, whether ſuch a Plantation or Settlement would, any ways, intrench upon the Patent of his Royal Highneſs, or otherwiſe prejudice the ſame. I am——*Maryland*. Whereupon, their Lordſhips, taking notice of the *Neighbourhood* of *Maryland* to the Country he deſires to plant, have thought fit to order a Copy of the Petition to be ſent you, or ſuch others as are employed here in behalf of the *Baltemore*, to the end *you* may acquaint them.——This Copy is proved by Mr. *Gellibrand*, and is *Botra*, N° 7.

1680. *June* 23. For *William Blaythwaite* Eſq; Secretary to the Right Honourable the Lords Commiſſioners for Trade and Plantations at *Whitehall*. St. *James's*, 23d *June* 1680. Sir, I had anſwered your Letter, of the 14th Inſtant, ſooner, but that my going to *Windſor* juſt when I received it, hindred me then, and alſo made me think it proper *to acquaint the Duke* with the Contents of it firſt; What I have now to ſay is this, that, by all which I can obſerve of the Boundaries mentioned in Mr. *Penn's* Petition, they *agree well enough with that Colony* or Plantation *which hath been hitherto* (*ever ſince the Conqueſt of* New York *by Colonel* Nicholls) *held as an Appendix and Part of the Government of* New-York, *by the Name of* Delaware Colony, *or more particularly* Newcaſtle Colony, that being the Name of a *principal* Place in it, (the whole being planted, promiſcuouſly, by *Swedes, Finlanders, Dutch* and *Engliſh*) *all which* hath been *actually under the Government* of his Royal Highneſs's Lieutenant at *New-York* hitherto; but what are its proper Boundaries (thoſe of Latitude and Longitude being ſo very little known, or ſo ill obſerved, as Experience tells us, in all the *Weſt-Indies*) I am not able to ſay. If this be what Mr. *Penn* would have, I preſume the Right Honourable the Lords of the Committee for Trade and Plantations will not encourage his Pretenſions to it, becauſe of what is above-mentioned, which ſhew plainly the Duke's *Right* preferable to all others (under his Majeſty's Good-liking) *though it ſhould not prove to be ſtrictly with the Limits of the Duke's Patent*; but, if it be any other Parcel of Land unimproved, in thoſe Parts, which is without all other Patents, and not interfering with the Poſſeſſions of his Majeſty's Subjects already ſettled there, I humbly ſubmit to their Lordſhips how far they may think convenient (under fitting Reſtrictions and Qualifications, whereby to tie up the Government of ſuch new Colony, as near as may be to the Laws of *England*) to recommend the Petitioner's Requeſt to his Majeſty: Thus, I think I have, as far as I am able at preſent, fully anſwered your Letter upon this Subject; and ſo I remain, Sir, your moſt affectionate Friend and Servant, *Jo. Werden.*——This is proved by Mr. *Gellibrand*, and is *Botra*, N° 8.

1680, *June* 23. To Mr. *Blaythwaite* at his Office in *Whitehall*, preſent. Sir, In anſwer to your's, in reference to Mr. *Penn's* Petition, ſome things are thought proper to be offered, in reſpect to the *particular Concern of my Lord* Baltemore, ſomething in reference to the Publick, *on his Lordſhips behalf.*——It is deſired, that, if the Grant paſs unto Mr. *Penn*, of the Land petitioned for by him in *America*, that it may be expreſſed to be of Land that ſhall lie *North of Saſquahana Fort*, and *North* of all Lands in a direct Line between the ſaid Fort and *Delaware* River, and alſo North of all Lands upon a direct Line *Weſtward* from the ſaid Fort, *for that Fort is the Boundary of* Maryland *Northward*; It is further deſired, that there may be contained *general Words* of Reſtriction, as to any Intereſt granted to the Lord *Baltemore*, and ſaving to him all Rights granted; It is alſo prayed, that *my Lord's Council* may have a Sight of the Grant before it paſs. On the Publick Account, it is offered that ſome due Caution be provided, that no Arms, Powder, Shot or other Ammunition, be ſold by any that ſhall ſettle in this new Plantation, to the *Indians* or Natives; for thereby a common Miſchief may happen unto all his Majeſty's neighbouring Plantations. This, with our Thanks on my Lord *Baltemore's* behalf, for your Care on him, is all at preſent from, Sir, your humble Servants, *Barnaby Dunch, Richard Burk.*——This is proved by Mr. *Gellibrand*, and is *Botra*, N° 9.

1680, *June* 25. *Whitehall, Friday* 25th of *June*, 1680. Preſent, Lord Preſident, Marquis of *Worceſter*, Earl of *Clarendon*, Mr. Secretary *Jenkins*. *The Petition* of Mr. *Penn* is *again read*, concerning a Tract of Land to be granted him in *America*, together with a Letter from Sir *John Werden*, and another from the Lord *Baltimore's* Agents, touching the ſame. And Mr. *Penn* being afterwards called in, is told, that it appearing by Sir *John Werden's* Letter, the Part of the Territory deſired by him is *already poſſeſſed* by the Duke of *York*, *he muſt apply himſelf to his Royal Highneſs* for adjuſting their reſpective Pretenſions. And Mr. *Penn* being alſo acquainted with the Matter of the Letter from the Lord *Baltimore's* Agents, *he does agree that* Saſquahannough *Fort ſhall be the Bounds of the Lord* Baltimore's *Province*. And, as to the furniſhing of Arms and Ammunition to the *Indians* Mr. *Penn* declares himſelf ready to ſubmit to *any* Reſtraint their Lordſhips ſhall propoſe.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Oct.* 16. For my Honoured Friend *William Blaythwaite* Eſq; Secretary to the Right Honourable the Lords Commiſſioners for Trade and foreign Plantations at *Whitehall*. *Whitehall*, 16th *Oct.* (80.) Sir, You heretofore wrote to me, touching Mr. *William Penn's* Petition, then before the Right Honourable the Lords Commiſſioners for Trade and foreign Plantations; to which I anſwered you, as at that time I was obliged to do. Since then, *Mr. Penn hath repreſented to the Duke*, his Caſe and Circumſtances (in relation to the Reaſons he hath to expect Favour from his Majeſty, touching that Requeſt of his) to be ſuch, as that his Royal Highneſs commands me to let you know (in order to your informing their Lordſhips of it) *That he is very willing Mr. Penn's Requeſt may meet with Succeſs*; that is, That he may have a Grant of that Tract of Land which lies on the North of *Newcaſtle* Colony (Part of *Delaware*) and on the Weſt Side of *Delaware* River, beginning about the Latitude of 40 Degrees, and extending Northwards and Weſtwards as far as his Majeſty pleaſeth, under ſuch Regulations as their Lordſhips ſhall think fit. I am, Sir, your very humble Servant, *Jo. Werden.*——This is proved by Mr. *Gellibrand*, and is *Botra* N° 10.

1680, *Nov.* 1. *Whitehall, Thurſday* the 1ſt of *Nov.* 1680. Preſent, Prince *Rupert*, Lord Privy Seal, Earl of *Bridgewater*, Earl of *Sunderland*, Earl of *Halifax*, Earl of *Clarendon*, Earl of *Eſſex*, Mr. *Hyde*, Mr. *Godolphin*, Mr. Chancellor of the Exchequer. *The Petition* of Mr. *Penn* is read, deſiring that a Day may be appointed for preparing *a Grant* unto him of Propriety in a Tract of Land in *America* upon *Delaware* River, and their Lordſhips appoint this Buſineſs for *Thurſday* next.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Nov.* 8. Copy of a Letter to Mr Attorney-General about Mr. *Penn*. Council-Chamber, the 8th *November* 1680. Sir, His Majeſty having referred the Petition of Mr. *William Penn*, unto the Lords of the Committee of Plantations, wherein he prays his Majeſty to grant him a Tract of Land in *America*, for the ſettling a Colony and Plantation there; and their Lordſhips having received, from him, the *incloſed Draught of a Grant*, which he deſires may paſs to him for the Government of that Colony, have commanded to ſignify their Deſire unto you, that, upon Conſideration of the Powers therein propoſed, you report unto them, whether you have any thing to object againſt the ſame; their Lordſhips having appointed to meet again upon this Buſineſs on *Thurſday* next at Four in the Afternoon.——This is proved by Mr. *Gellibrand*, and is *Botra*, N° 11.

1680, *November* 11. *Whitehall, Thurſday November* the 11th, 1680. Preſent, Lord Privy Seal, Earl of *Clarendon*, Earl of *Halifax*, Earl of *Bridgewater*, Earl of *Sunderland*, Mr. Secretary *Jenkins*. *Mr. Attorney General preſents* the Committee with his *Obſervations* upon the Draught of Mr. *Penn's* Patent.——This is proved by Mr. *Gellibrand*, and is *Botra*, N° 6.

1680, *Nov.* 18. To Sir *J. Werden* about Mr. *Penn's* Patent. Council-Chamber the 18th *Nov.* 1680. Sir, I formerly ſent you the *Petition* of Mr. *Penn*, touching a Tract of Land adjoining to *New-York*, and received your Anſwer thereupon, which I preſented to the Lords of the Committee of Plantations, and *now ſend you*, by their Lordſhips Order, *an Extract of* ſo much of *the Patent*, which he is ſoliciting, as concerns the *Boundaries*, to the end you may make your Objections to it in behalf of his *Royal Highneſs*, if you ſee Cauſe. The Commitree having appointed to take this Buſineſs into their further Conſideration on *Tueſday* next at Four in the Afternoon.——This is proved by Mr. *Gellibrand*, and is *Botra*, N° 12.

1680, *Nov.* 18. To the *Agents of the Lord* Baltemore, about Mr. *Penn's* Grant. Council-Chamber, the 18th *Nov.* 1680. Gentlemen, On the 14th of *June* laſt, I ſent you, by Order of the Lords of the Committee for Plantations, the Petition of Mr. *Penn*, who prays a Charter for making a Settlement Northerly of *Maryland*; and I received your Anſwer, in behalf of my Lord *Baltimore*, on the 23d following, which I accordingly laid before the Committee; ſince which time their Lordſhips have peruſed the *Draught* of Letters Patent which Mr. *Penn* deſires to have paſſed unto him, and which, he alledges, *was put into your Hands, according to their Directions, in order to receive your Objections, if you had any to make*; wherefore, their Lordſhips command me to give you *notice* of the Meeting of a Committee on *Tueſday* next at Four in the Afternoon, for the further Conſideration of this Buſineſs, and that, in caſe you have nothing *more* to offer to their Lordſhips at that time, they will, thereupon, take their final Reſolution concerning the ſaid Patent. I am——This is proved by Mr. *Gellibrand*, and is *Botra* N° 13.

1680, *Nov.* 20. For my honoured Friend *William Blaythwaite* Eſq; Secretary to the Right Honourable the Lords Commiſſioners for Trade and foreign Plantations, at *Whitehall*, *St. James's* 20th *Nov.* (80) Sir, *At two of the Clock* this Day, I met with your Letter to me, of the 18th Inſtant, and a Copy in it (which I here return you) of ſome Part of Mr. *Penn's* Patent for Land in *America*. I am, firſt, to premiſe to you, that, in caſes of this Nature, it were moſt proper to have the Advice of Council learned in the Laws, for ſettling the Boundaries of any new Patent, which may be liable to encroach on thoſe of another's Poſſeſſion. But in regard I remember well *the Duke's* Directions (expreſſed in a former Letter from me to you, by his Royal Highneſs's Order, dated 16th *October* (80.) I ſhall frankly tell you my Thoughts thereupon, *viz.* That I believe the Deſcription by Lines, of Longitude (eſpecially) and of Latitude, are very uncertain, and ſo alſo is it under what Meridian the Head of *Delaware* River lies, which, I do believe, hath never yet been obſerved, by any careful Artiſt; *But it being the Duke's Intention*, that Mr. *Penn's* Grant be bounded on the Eaſt-ſide by *Delaware* River, and that his South Limit be 20 *or* 30 *Miles beyond* Newcaſtle (which Colony of *Newcaſtle* is Northwards, and *diſtinct from* Maryland, that being under the Juriſdiction of Lord *Baltemore*) which Extent Northwards of *Newcaſtle* Colony, we gueſs, may reach as far as the *Beginning of the* 40*th Degree* of Latitude; therefore, if Mr. *Penn's* Patent be ſo worded, as to leave *Newcaſtle* 20 or 30 Miles beyond it free, and to be bounded on the Eaſt by *Delaware* River; I think this is all the Caution that needs, *as to the Duke*, who will not concern himſelf how far North or Weſt Mr. *Penn's* Patent takes in. I am, Sir, your very affectionate Friend and humble Servant, *Jo. Werden.*——This is proved by Mr. *Gellibrand*, and is *Botra* 14.

1680, *Nov*, 23. To my Honoured Friend *William Blaythwaite* Eſq; Secretary to the Right Honourable the Lords Commiſſioners for Trade and foreign Plantations, *Whitehall*. *St. James's*, 23d *Nov.* (80.) Sir, Mr. *Penn* having fallen into Diſcourſe with me of his Concerns in *America*, ſince I wrote to you on *Saturday*, I have told him the Subſtance of what I wrote, and he ſeems to fear that if his South Limits be ſtrictly ſet *at* 20 *or* 30 *Miles North from* Newcaſtle *Town*, he ſhall have ſo little of the *River* left, as very much to prevent the Hopes he hath of improving the reſt within his Patent, but, on the other Side, *he is willing that* 12 Engliſh *Miles North of* Newcaſtle *be his Boundary*, and believes that that Diſtance will fall under *the Beginning* of the 40th Degree of Latitude; I have already ſignified to you all I know of the Duke's Mind herein, which is, in general, to keep *ſome convenient Diſtance* from *Newcaſtle*, Northwards, for a Boundary to that Colony, but I confeſs, I do not underſtand why 'tis preciſely neceſſary to inſiſt on *juſt ſuch a Number* of Miles, more or leſs, in a Country of which we know ſo little, and when all the Benefits are intended to this Patentee that others enjoy; ſo as I ſubmit this Point to their Lordſhips Conſideration, and do not think it material for me to add more at preſent from, Sir, your very affectionate Friend and Servant, *Jo. Werden.*——This is proved by Mr. *Gellibrand*, and is *Botra* 15.

1680, *Decemb.* 16. *Whitehall, Thurſday* the 16th Day of *Dec.* 1680, preſent, Prince *Rupert*, Lord Privy Seal, Marquis of *Worceſter*, Earl of *Clarendon*, Earl of *Halifax*, Lord Chamberlain, Earl of *Bridgewater*, *Lord Chief Juſtice North*, Mr. Secretary *Jenkins*, Mr. *Hyde*. *Mr.* Penn *is called in*, concerning the Patent deſired by him, and upon reading the Letters from Sir *John Werden*, touching the Boundaries wherein his Royal Highneſs may be concerned, their Lordſhips think it beſt, for the Settlement thereof, that Sir *John Werden* be deſired to attend, on *Saturday* next in the Afternoon; at which time *the Agent* of the Lord *Baltimore* is *likewiſe* ordered to give his Attendance, as to what concerns his Lordſhip's Propriety of *Maryland*.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Dec.* 16. Copy of a Summons to the Lord *Baltemore's* Agent Mr. *Burk*, and to Sir *John Werden*, about Mr. *Penn's* Patent. Council-Chamber 16th *December*, 1680. Sir, The Right Honourable the Lords of the Committee for Trade and foreign Plantations have appointed to hear the *Exceptions* of my Lord *Baltimore*, againſt the *Draught* of Mr. *Penn's Patent*, formerly ſent to you, upon *Saturday* the 18th of this Inſtant at Four in the Afternoon; and you are deſired not to fail in your Attendance at that time, their Lordſhips being then reſolved to proceed to a Reſolution in that Matter. I am——Mr. *Burk*—— Sir, The Lords of the Committee of Trade and Plantations find it neceſſary, in order to the Settlement of Mr. *Penn's* Patent, to diſcourſe with you concerning it, and have therefore commanded to deſire you to attend on *Saturday* the 18th Inſtant at Four in the Afternoon.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 16.

(1680, Dec. 16.) Mr. Penn's Boundaries, ſettled by my Lord Chief Juſtice North——As the ſame is bounded on the Eaſt by Delaware River from the Beginning of the 12 Miles Diſtance Northwards of Newcaſtle Town fortieth Degree of Northern Latitude, if unto the three and fortieth Degree of Northern Latitude, if the ſaid River doth extend ſo far Northward; But, if the ſaid River ſhall not extend ſo far Northward, then, by the ſaid River, ſo far as it doth extend, and from the Head of the ſaid River, the Eaſtern Bounds are to be determined by a Meridian Line, to be drawn from the Head of the ſaid River unto the ſaid three and fortieth Degree. The ſaid Lands do extend Weſtward five Degrees in Longitude, to be computed from the ſaid Eaſtern Bounds, and the ſaid Lands are bounded, on the North, by the Beginning of the three and fortieth Degree of Northern Latitude, and, from a Circle drawn from the Diſtance at 12 Miles Diſtance from Newcaſtle Northwards and Weſtward unto the South by by a ſtreight Line the Beginning of the fortieth Degree of Northern Latitude, and then, on, Weſtwards, to the Limit of Longitude above-mentioned.——~~Excepting all Lands within twelve Miles of the Town of Newcaſtle that ſhall happen to lie within the ſaid Bounds now in the Poſſeſſion of his Royal Highneſs or his Tenants or Aſſigns.~~——This is proved by Mr. *Gellibrand*, and is *Botra* N° 17.

(1680, *Dec.* 16.) About Mr. *Penn*'s Boundaries. May it pleaſe your Lordſhips, I have conſidered the Petition of Mr. *William Penn*, praying his Majeſty to grant unto him a Tract of Land in *America*, lying North of *Maryland*, bounded on the Eaſt by *Delaware* Bay, to the Weſtward by the *Indian* Countries, as *Maryland*; and do not find that ſuch Boundaries do intrench upon the Lord *Baltimore*'s Province of *Maryland*, which is bounded Southward by a Part of *Virginia*, Eaſtward by the main Ocean and *Delaware* River, and Northward by that Part of *Delaware* River that lieth in the 40th Degree of Latitude, and ſo, by a direct Line, Weſtward, through the Continent. And the Patent granted to his Royal Highneſs of *New-York*, being bounded Weſtward by the *Eaſt* Side of *Delaware* Bay, is ſufficiently diſtinguiſhed from the Grant deſired by Mr. *Penn*, which is bounded Eaſtwardly by *Delaware* Bay, or River; ſo that that Tract of Land deſired by Mr. *Penn*, ſeems to be undiſpoſed of by his Majeſty, except the imaginary Lines of *New-England* Patents, which are bounded, Weſtwardly, by the main Ocean, ſhould give them a real, though impracticable Right, to all thoſe vaſt Territories. But, I am further to offer unto your Lordſhips, that there are *ſeveral* Dutch *and* Swediſh *Plantations, which have been long under the* Engliſh *Government, that lie ſcattered on the Weſtward of* Delaware *River, and ſome of them perhaps within the Bounds* of Mr. *Penn*'s Petition, and have, for a long time, either *acknowledged* the Protection of his Royal Highneſs, who took them from the *Dutch* upon the Conqueſt of *New-York*, or of the Lord *Baltemore*, near whoſe Borders they are ſettled: And how far Mr. *Penn*'s Grant may, in this Conſideration, concern his Neighbours, is moſt humbly ſubmitted to your Lordſhips.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 18.

1680, *January* 15. *Whitehall, Saturday* the 15th of *January* 168$\frac{0}{1}$. Preſent Prince *Rupert*, Lord Privy Seal, Marquis of *Worceſter*, Lord Chamberlain, Earl of *Bridgewater*, Earl of *Clarendon*, Viſcount *Fauconberg*, Mr. *Finch*, *Lord Chief Juſtice* North, Mr. Chancellor of the Exchequer. *The Boundaries* of Mr. *Penn*'s Patent, *ſettled by my Lord Chief Juſtice* North, *with the Alterations of Sir* John Werden, are read and approved. And their Lordſhips appoint *Wedneſday* next, at Nine in the Morning, to review the whole Patent.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Jan.* 22. *Whitehall, Saturday* the 22d of *January* 168$\frac{0}{1}$. Preſent, Lord Privy Seal, Earl of *Clarendon*, Mr. *Hyde*, *Lord Chief Juſtice* North, Mr. *Seymour*, Mr. Secretary *Jenkins*. *Upon reading* the Draught of a Patent for Mr. *Penn*, conſtituting him abſolute Proprietary of a Tract of Land in *America*, Northerly of *Maryland*, The Lords of the Committee deſire my Lord Chief Juſtice *North* to take the ſaid Patent into his Conſideration, and to provide, by fit Clauſes therein, that all Acts of Sovereignty, as to Peace and War, be reſerved unto the King; and that all Acts of Parliament, concerning Trade and Navigation and his Majeſty's Cuſtoms, be duly obſerved; and, in general, that the Patent be ſo drawn, that it may conſiſt with the King's Intereſt and Service, and give ſufficient Encouragement to Planters to ſettle under it. A Paper being alſo read, wherein my Lord Biſhop of *London* deſires that Mr. *Penn* be obliged by his Patent to admit a Chaplain of his Lordſhip's Appointment upon the Requeſt of any Number of Planters; the ſame is alſo referred to my Lord Chief Juſtice *North*.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Feb.* 24th. *Whitehall, Thurſday* the 24th of *February* 168$\frac{0}{1}$. Preſent, Lord Preſident, Earl of *Conway*, Earl of *Clarendon*, Earl of *Cheſterfield*, Mr. Secretary *Jenkins*. *A Draught* of a Patent for Mr. *Penn* is read, and there being a Blank left for the Name, their Lordſhips agree to leave to Nomination of it to the King. The Lord Biſhop of *London* is deſired to prepare the Draught of a Law, to be paſſed in this Country, for the ſettling of the Proteſtant Religion.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 6.

1680, *Feb.* 24. May it pleaſe your Majeſty, In Obedience to your Majeſty's Order, ſignified unto us by the Earl of *Sunderland* on the firſt of *June* laſt, We have prepared the Draught of a Charter, conſtituting *William Penn* Eſq; abſolute Proprietary of a Tract of Land in *America* therein mentioned, which we humbly preſent to your Majeſty for your Royal Approbation, leaving alſo the naming of the ſaid Province unto your Majeſty, which is moſt humbly ſubmitted.——This is proved by Mr. *Gellibrand*, and is *Botra* N° 19.

Car. II. 1680. *Mar.* 4. *Charles the Second*, by the Grace of God King of *England, Scotland, France* and *Ireland*, Defender of the Faith, &c. To all whom theſe Preſents ſhall come Greeting.

Whereas Our Truſty and Well-beloved Subject *William Penn* Eſq; Son and Heir of Sir *William Penn* deceaſed, out of a commendable Deſire to enlarge our *Engliſh* Empire, and promote ſuch uſeful Commodities, as may be of Benefit to us and our Dominions, as alſo to reduce the ſavage Natives, by gentile and juſt Manners, to the Love of Civil Society and Chriſtian Religion, hath humbly beſought Leave of us to tranſport an ample Colony unto a certain Country, herein after deſcribed, in the Parts of *America*, not yet cultivated and planted; And hath likewiſe humbly beſought our Royal Majeſty to give, grant and confirm all the ſaid Country, with certain Privileges and Juriſdictions requiſite for the good Government and Safety of the ſaid Country and Colony, to him and his Heirs for ever;

Know ye therefore, that we, favouring the Petition and good Purpoſe of the ſaid *William Penn*, and having Regard to the Memory and *Merits* of his late Father in *diverſe* Services, and particularly to his Conduct, Courage and Diſcretion, under our deareſt Brother *James* Duke of *York*, in that ſignal Battle and Victory fought and obtained againſt the *Dutch* Fleet commanded by the *Heer Van Obdam* in the Year 1665,

In Conſideration thereof, of our ſpecial Grace, certain Knowledge and meer Motion, have given and granted, and, by this our preſent Charter, for us, our Heirs and Succeſſors, do give and grant, unto the ſaid *William Penn*, his Heirs and Aſſigns,

All that Tract or Part of Land in *America*, with all the Iſlands therein contained, as the ſame is bounded, on the Eaſt, by *Delaware* River, from 12 Miles *Diſtance* Northwards of *Newcaſtle* Town unto the three and fortieth Degree of Northern Latitude, if the ſaid River doth extend ſo far Northwards; but if the ſaid River ſhall not extend ſo far Northward, then, by the ſaid River, ſo far as it doth extend, and, from the Head of the ſaid River, the Eaſtern Bounds are to be determined by a Meridian Line to be drawn from the Head of the ſaid River unto the ſaid three and fortieth Degree; The ſaid Lands to extend Weſtward five Degrees in Longitude, to be computed from the ſaid Eaſtern Bounds; and the ſaid Lands to be bounded, on the North, by the *Beginning* of the three and fortieth Degree of Northern Latitude, and, on the South, by a Circle, drawn, at 12 Miles *Diſtance* from *Newcaſtle*, Northwards, and Weſtwards, unto the *Beginning* of the fortieth Degree of Northern Latitude, and, then, by a ſtraight Line, Weſtward, to the Limit of Longitude above mentioned.

We do alſo give and grant, unto the ſaid *William Penn*, his Heirs and Aſſigns, the free and undiſturbed Uſe and Continuance in, and Paſſage into, and out of, all and ſingular Ports, Harbours, Bays, Waters, Rivers, Iſles, and Inletts, belonging unto, or leading to and from the Country or Iſlands aforeſaid; and all the Soyl, Lands, Fields, Woods, Underwoods, Mountains, Hills, Fenns, Iſles, Lakes, Rivers, Waters, Rivulets, Bays and Inletts, ſituate or being within, or belonging unto, the Limits and Bounds aforeſaid; together with the Fiſhing of all Sorts of Fiſh, Whales, Sturgeons, and all Royal and other Fiſhes in the Sea, Bays, Inletts, Waters or Rivers within the Premiſes, and the Fiſh therein taken, and alſo all Veins, Mines and Quarries, as well diſcovered as not diſcovered, of Gold, Silver, Gems and Precious Stones, and all other whatſoever, be it Stones, Metals, or of any other Thing or Matter whatſoever, found or to be found, within the Country, Iſles, and Limits aforeſaid.

And him the ſaid *William Penn*, his Heirs and Aſſigns, we do, by this our Royal Charter, for us, our Heirs and Succeſſors, make, create and conſtitute the true and abſolute Proprietaries of the Country aforeſaid, and of all other the Premiſſes. Saving always to us, our Heirs and Succeſſors, the Faith and Allegiance of the ſaid *William Penn*, his Heirs and Aſſigns, and of all other the Proprietaries, Tenants and Inhabitants, that are, or ſhall be, within the Territories and Precincts aforeſaid; And ſaving alſo, unto us, our Heirs and Succeſſors, the Sovereignty of the aforeſaid Country.

To have, hold, poſſeſs and enjoy the ſaid Tract of Land, Country, Iſles, Inletts, and other the Premiſſes, unto the ſaid *William Penn*, his Heirs and Aſſigns, to the only proper Uſe and Behoof of the ſaid *William Penn*, his Heirs and Aſſigns, for ever, To be holden of us, our Heirs and Succeſſors, Kings of *England*, as of our Caſtle of *Windſor* in our County of *Berks*, in free and common Soccage, by Fealty only for all Services, and not *in Capite* or by Knight's-Service.

Yielding and paying, therefore, to us, our Heirs and Succeſſors, two Beaver Skins, to be delivered at our ſaid Caſtle of *Windſor*, on the firſt Day of *January* in every Year; And alſo, the fifth Part of all Gold and Silver Ore which ſhall from time to time happen to be found within the Limits aforeſaid, clear of all Charges.

And, of our further Grace, certain Knowledge and meer Motion, we have thought fit to erect, and we do hereby erect, the aforeſaid Country and Iſlands into a *Province and Seigniory*, and do call it *Penſilvania*; And ſo, from henceforth, we will have it called, &c.——Original Charter under the Great Seal.

It may be proper to obſerve here, that there is, at the Board of Trade, a very beautiful *Map* of *Maryland*, but very ill drawn, of which we have proved a *Copy*; it muſt have been, *at leaſt, as ancient* as *this* Time, becauſe it takes no notice at all of *Penſilvania*; By it, the *Eaſtern* Side of the Peninſula is plainly left as *void* and *unſettled*, whereas *all* the other Parts are extremely full of Names of Places. This Map lays down neither Cape *Cornelius*, nor Cape *Hinlopen*, and it makes the *Line* of the 40th Degree *compleat* to be a little above *Newcaſtle* Town, but a great deal above the Heads of *both* Bays, and it makes the *apparent* Iſthmus or Neck, which joins the Peninſula to the main Continent, to be about 18 Miles *below Newcaſtle*; but, although a beautiful Map to look at, it's done with no ſort of Truth. We have proved a Copy of this Map, by Mr. *Mathias*, and it is——Exhibit, *Botra* N° 25.

Mar. 30. From the *New York* Records, the Entry of a *Letter*, dated at *New York*, and directed to the Juſtices and Court at the *Whorekill*: It's ſigned only ſhortly *A. B.* (which we ſhall ſee by and by was *Anthony Brockholts* the *Commander*, left there by Sir *Edmund Andros*) He tells them he has received theirs of the 21ſt, with a Complaint of ſeveral Miſdemeanours againſt the Clerk of the Court, for which they ſayd they had been obliged to turn him out; But you had done well (ſays he) had you ſent the Cauſe *hither*, before you ſuſpended him, it being a Matter rather becoming the Power of ſome *higher Judicature*, and not ſo fitting for yourſelves, who were the Accuſers, to judge of; however, I am inclinable to believe you did not do it without full Examination into the Truth; and, in hopes of *Amendment* for the future, *am willing to paſs it by*; to which you have made a good Step in the Choice of *William Clark*, a Perſon *I judge* capable enough, and could well *approve of* for a Continuance, were he not one of your Bench, which is not practicable in any Part of this Government; however, he may officiate till further Order.——*New York* Records, N° 1. Fol. 119.

Apr. 8. At a *Court* held in *Newcaſtle*, Preſent Captain *John Lewin, his Royal Highneſs's Agent*, the Juſtices and Captain *Cantwell* the Sheriff, Captain *Lewin* produced his Commiſſion from the *Duke*, and, underſtanding it had been publickly read here in Court, demanded whether any body queſtioned the ſame, but none appearing, it was ordered that it ſhould be recorded.——*Newcaſtle* Records, N° 11. Fol. 87.

Apr. 23. From the *Kent* Records, a Bill of Sale, acknowledged in open Court, and recorded, whereby *John Briggs*, of *St. Jones's County in the Province of New York*, aſſigns ſome Patent and the Benefit of it, unto *Henry Stevenſon*.——*Kent* Records, N° 14. Fol. 14.

Apr. 23. From the *Kent* Records, an Entry of a *Bond* of this Date, whereby, according to *that Court's Order*, the Appellant *Cornelius Verhoof*, with two Securities, entred into Bond to the Court of *St. Jones's* County, of 200 *l. New York* Money, *for anſwering the Appeal* granted in the Action of *Johannis Kypp* and *Raynier Williams*, at the next High Court of Aſſizes at *New York*, and abiding the final End and Determination of *that* Court.——And on the other hand, another Bond from *Johannis Kypp* and Partners to the ſaid Court of *St. Jones*'s County, in 200 *l. New York* Money, conditioned to appear and anſwer the ſaid Appeal at the next Court of Aſſizes *at New York*, and to abide by the final Determination of *that* Court.——*Kent* Records, N° 14. Fol. 17.

May 6. *A Re-ſurvey*, made by *Ephraim Herman* Surveyor, for *John Barentſon*, according to a Patent from Governor *Lovelace*, of Land granted to *Geritt Sanderſon*, and by him ſold to the ſaid *John Barentſon*, lying on the *Weſt* ſide of *Delaware* River above *Newcaſtle*, at a Place called *Swanwick*.——*Newcaſtle* Records, N° 11. Fol. 88.

July 19. At a Meeting of the Juſtices of *St. Jones*'s County, *Ephraim Herman*, the Surveyor, made Returns of the following Surveys, made for divers Perſons there named, according to the ſeveral Warrants from *this* Court directed to him; Then they enumerate the Names of 23 Perſons, and their reſpective Quantities of Land, which altogether amount to 14,247 Acres.——Thoſe 23 Certificates, Plotts, and Surveys, were overlooked and peruſed by the Magiſtrates, and were by them allowed, and the Clerk *John Brinckloe* ordered to cauſe the ſame to be recorded upon the Records, and, after that, to certify *to the Governor*, on every of the ſaid Certificates, that they were approved of by the Court; and then to be ſent *to New York, for further Confirmation thereof by Patent*.——*Kent* Records, N° 14. Fol. 18.

Aug. 15. From the *New York* Records *an Order*, dated in *New York*, ſigned ſhortly *A. B.* but there ſaid to be made by *the Commander in Chief*, directed to the Magiſtrates, Court and Sheriff at *Deal* alias *Whorekill, Delaware*; recites, that Complaint had been made to the Commander, that *Cornelius Verhoof*, though *diſmiſt* from being Clerk of the Court, and another appointed in his ſtead, detains and refuſes to deliver the Records and Papers belonging to the ſaid Court; Therefore, in the King's Name authoriſing and requiring the *Magiſtrates, Court, and Sheriff*, to demand them, to ſearch for them in all Places, and, if found, to deliver them to *William Clark*, the preſent Clerk; but if not found, to bind *Verhoof* over, to the general *Court of Aſſizes*, to anſwer the ſame.——*New York* Records, N° 1. Fol. 119.

1681. *Aug.* 21. From *New York* Records the following Entry.——Theſe following Accounts recorded for Mr. *Philip Wells* in behalf of Sir *Edmund Andros*. *New York*, *Anno* 1681. *Aug.* 21. Account of Debtors ſtanding out, *&c. for Account of his Royal Highneſs James* Duke of *York*, *&c.* Among other Articles in ſaid Account of outſtanding Debts to his Royal Highneſs is the following one, *For Quit-Rents at* Delaware Ephraim Herman *is to give account of.*——*New York* Records, N° 1. Fol. 120.

Aug. 27. From the *New York* Records, the *Duke of York's Order*, dated at *Edinburgh*, directed to Lieutenant *Brockholls*.——Being informed that moſt, if not all, the Commiſſions of the Peace, and Magiſtrates, in the City and Province of *New York*, and *Dependencies*, do expire, ere long; I ſignify to you, *that* the *preſent* Juſtices and Magiſtrates are to *continue* in the Exerciſe of their reſpective Functions until further Order; and in caſe of any Want of them, by Death or otherwiſe, their Places to be ſupplied, from time to time, *by you and the Council.*——*New York* Records, N° 1. Fol. 120.

Octob. 5. In the *Kent* Records, *an Entry of an Act of the General Court of Aſſizes* held at *New York* this Day, atteſted by the Clerk of the Aſſizes, that in the Cauſe *Cornelius Verhoofe* Appellant, *Johannes Kypp* and *Raynier Williams* Defendants, the Appellant not appearing to proſecute his Appeal according to Law, the Court ordered him to be non-ſuited, and to pay Coſts.——And, underneath that Entry, *another Entry* or Minute; Execution taken out upon the Order of *April* Court 1681.——*Kent* Records, N° 14. Fol. 19.

Nov. 11. From the *Newcaſtle* Records, *a Letter*, writ by the Juſtices, directed to the Right Honourable Captain *Anthony Brockholts*, *Deputy-Governor in New York*, acquainting him, that at their ordinary Court-Day, on the 1ſt Inſtant, *Francis Jackſon*, Servant to *Abraham Man*, appeared in Court, and there delivered a Paper ſigned by his Maſter, whom we reſolved to ſend for and proceed againſt; to which purpoſe we iſſued a Warrant, but the ſaid *Man* made his Eſcape from the Under-Sheriff, and keeps at preſent in *Penſilvania* and *Burlington*; We ſend your Honour, encloſed, the Copies of all the Papers and other Proceedings, *and deſire your Honour's further Order* and Inſtructions for our further Rule in this and the like Occaſions. The Proclamation which Mr. *Moll* brought along with him, is publiſhed.——*Newcaſtle* Records, N° 11. Fol. 89.

Nov. 21. From *New York* Records, an Entry of Deputy-Governor *Anthony Brockholl's Anſwer*, ſigned by him, and directed to the Magiſtrates and Court at *Newcaſtle Delaware*——Says he has received theirs of the 11th, with the encloſed Writing about *Abraham Man*, whom you did well to proſecute, but your Officers were not ſo careful as they ought, in the Service of the Warrant.——His Offence being great, I have wrote *to the Governor of Penſilvania*, that, if he abſcond in *that* Government, Enquiry may be made, and he delivered to you. If he be ſubmiſſive, you may bind him over, on good Sureties, to the next *General Court of Aſſizes*, to anſwer the ſame; but, if he be ſtubborn, ſend him *hither*, that he may not longer diſturb the Peace and Quiet of *your* Parts, which ſhall always endeavour to preſerve; hope you'll do your Parts, that all Offenders in the like Nature may have their due Puniſhment, and the Authority of the Government maintained and ſupported.——*New York* Records, N° 1. Fol. 120.

Note, The ſame Letter is alſo entred in—— *Newcaſtle* Records, N° 11. Fol. 91.

Dec. 6. At a *Court* held before the Juſtices in the Town of *Newcaſtle*, upon ſeveral Petitions preſented to them, the Court granted to *Benjamin Gumly to take up* 200 Acres, *Ephraim Herman* 400 Acres, *Caſparus Herman* 400 Acres, and to *Joſeph Burnham* a Lot within the Town of *Newcaſtle*.——*Newcaſtle* Records, N° 11. Fol. 90.

Jan. 26. From the *New York* Records *a Letter* from Captain *Brockholls*, dated in *New York*, and directed to Mr. *Ephraim Herman*, owns the Receipt of his of the 16th and 27th of *December*, and tells him that he has ſent him encloſed *an Order* for collecting and receiving the *Quit-Rents*, and Arrears, due in *Delaware* River *and Dependencies*, as formerly, *as well of what was in Arrear for that Part of the River now called* Penſilvania; Of which have wrote *to Governor* Markham, *deſiring* him to aſſiſt you therein. ☞ ——As to the Deſire of the *Magiſtrates*, to join, to lay out *the twelve Miles above* Newcaſtle, it is not within *their* Cognizance, but, if neceſſary, *and deſired here*, ſhall appoint as may be moſt proper.——*New York* Records, N° 1. Fol. 121.

Same Day. Captain *Brockhol's Commiſſion or Warrant*, dated in *New York*, and directed to *Ephraim Herman*, Collector and Receiver of the *Quit-Rents* in *Delaware River*, recites that he had been formerly appointed Collector and Receiver of the Quit-Rents due in *Delaware River and Dependencies*; and ſeveral Sums being due and in Arrear for the ſame, *as well in that Part of the River now called* Penſilvania, as the *other* Parts thereof; he therefore authoriſes *Herman* to continue to collect and receive the ſame, till further Order; remitting it to Captain *Brockholts*, together with an Account thereof, as often as Opportunity.——*New York* Records, N° 1. Fol. 121.

Same Day. Captain *Brockholl's* Letter, dated at *New York*, *to the Governor of* Penſilvania, acquainting him what Authority he had continued to *Hermans*; and being informed that ſeveral Perſons, *now under your Government*, are in Arrear for the ſame, *do deſire* your Favour and Aſſiſtance to the ſaid Collector in the Receipt thereof; aſſuring you I ſhall be ready, on all Occaſions, to ſerve you, *&c.*——*New York* Records, N° 1. Fol. 121.

Feb. 1. From *Suſſex* Records, the Entry there, of a *Bill of Sale*, from *John Oakey* of *Deal* County *in the Province of* New York, to *John Kiphaven* and *Alexander Moulſton* of a Lot of Land.——*Suſſex* Records, N° 17. Fol. 15.

March 12. From *Kent* Records, *A Deed of Conveyance* of Lands, acknowledged in open Court, and recorded, from *John Burton* to *Daniel Jones*, wherein the ſaid *John Burton* deſcribes himſelf of *St. Jones's, in the Province of* New York.——*Kent* Records, N° 14. Fol. 20.

1682, *June* 21. From *Kent* Records, *A Contract*, acknowledged in open Court, and recorded, being for Sale of Lands on the North Branch of *Duck Creek*, from *John Hilliard* to *Simon Hirons*; wherein *Hilliard* writes himſelf of *St. Jones's* County *in the Province of* New York, and, when *Hilliard* obtains a Patent for the ſame, out of the Office at *New York*, he ſhall make further Aſſurance.——*Kent* Records, N° 14. Fol. 21.

Aug. 11. From *Kent* Records, an *Aſſignment*, acknowledged in open Court, and ordered to be recorded, from *Thomas Heathard* of the County of *St. Jones in the Province of* New York, to *Samuel Mott*.——*Kent* Records, N° 14. Fol. 22.

Aug. 14. From *Kent* Records, *A General Releaſe*, ordered to be recorded, made from *William Buorn* of *St. Jones's* County *in the Province of* New York, to *Nicholas Greenberry*.—*Kent* Records N° 14. Fol. 23.

Aug. 15. From *Kent* Records, a Letter of Attorney, ordered to be recorded, from *John Beaman* and *Nicholas Greenberry*, both of *Maryland*, unto Captain *John Briggs* of *St. Jones's* County, *in the Province of* New York, to demand and recover a Bond Debt due from *William Buorn*, of the County of *St. Jones*, *in the Province of* New York.—— *Kent* Records, N° 14. Fol. 24.

Aug. 21. *An Original Indenture of Releaſe*, under the Hand and Seal of the Duke of *York*, being made between the ſaid Duke of *York*, of the one Part, and *William Penn* Eſq; Son and Heir of Sir *William Penn* Knight, deceaſed, of the other Part.——It recites, that the Duke, being willing and deſirous, that the Tract, or Part of Land called *Penſilvania*, therein after mentioned, ſhould be granted and aſſured unto the ſaid *William Penn*, and his Heirs, and, for that Purpoſe, *having ſignified and declared his Aſſent thereunto, to the Right Honourable the Lords of Committee of Plantations*; His Majeſty, by his Letters Patent under the Great Seal, bearing Date the 4th of *March*, in the 33d Year of his Reign, had granted unto the ſaid *William Penn*, and his Heirs, all that Tract, or Part of Land in *America*, with the Iſlands therein contained, and thereunto belonging, as the ſame is bounded and deſcribed in, and by the ſaid Patent, and therein called *Penſilvania*, together with ſeveral Royalties, Franchiſes, Juriſdictions and Privileges therein contained.——It further recites, that, in Conſideration of 5*s.* and for the Conſiderations therein after mentioned, the ſaid Duke was willing and pleaſed to *confirm*, and make any *further Aſſurance* of the ſaid Tract of Land and Premiſes, unto the ſaid *William Penn*, and his Heirs.——Now, his ſaid Royal Highneſs, out of a ſpecial Regard to the Memory, and *many* faithful and *eminent Services*, heretofore performed by the ſaid Sir *William Penn* to his Majeſty, and his Royal Highneſs, and *for the better encouraging* the ſaid *William Penn* to proceed in the cultivating and improving the ſaid Tract of Ground and Iſlands therein, and thereunto belonging, and reducing the ſavage and barbarous Natives thereof to Civility, and for the *Good-will* which his ſaid Royal Highneſs hath, and beareth unto the ſaid *William Penn*, and for *other good Cauſes and Conſiderations*, doth, for him and his Heirs, remiſe, releaſe, and for ever quit Claim, unto the ſaid *William Penn*, (in his peaceable Poſſeſſion now being) his Heirs and Aſſigns, all the Eſtate, Right, Title, Intereſt, Rents, Services, Duties, Payments, Property, Claim and Demand whatſoever, of his ſaid Royal Highneſs, of, into, or out of the ſaid Tract of Land, and all and ſingular other the Lands, Iſlands, Tenements, Hereditaments, and other Things comprized in the ſaid Letters Patent, and within the Bounds and Limits therein mentioned; to hold to the ſaid *William Penn*, and his Heirs, to the only Uſe and Benefit of the ſaid *William Penn*, his Heirs and Aſſigns for ever.——The original Indenture under the Duke's Seal, (above 60 Years old) witneſſed by *Jo. Werden* and *Geo. Mann*.

Aug. 24. *Another original Indenture of Feoffment*, under the Hand and Seal of the Duke of *York*, between the Duke of the one Part, and the ſaid *William Penn* of the other Part, whereby (without any Recitals) the ſaid Duke, out of a ſpecial Regard to the Memory, and *many faithful and eminent Services* thentofore performed by Sir *William Penn* to his Majeſty and the Duke, and for the *Good-will* which the Duke had and bore to the ſaid *William Penn*, and in Conſideration of 10*s.* and *for other good Cauſes and Conſiderations*, did bargain, ſell, enfeoff and confirm, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever,

All that the Town of *Newcaſtle*, otherwiſe called *Delaware*, and all that Tract of Land, lying within the Compaſs or Circle of 12 Miles about the ſame, ſcituate, lying, and being upon the River *Delaware* in *America*, and all Iſlands in the ſaid River *Delaware*, and the ſaid River and Soil thereof, lying North of the Southermoſt Part of the ſaid Circle of 12 Miles about the ſaid Town,

Together with all Rents, Services, Royalties, Franchiſes, Duties, Juriſdictions, Liberties and Privileges thereunto belonging, and all the Eſtate, Right, Title, Intereſt, Powers, Property, Claim and Demand whatſoever, of the Duke, of, in, or to the ſame, or to any Part or Parcel thereof,

Saving always to the Duke, his Agent and Servants, free Uſe of all Ports, Ways and Paſſages, into, through, and out of the bargained Premiſes, and every Part and Parcel thereof,

To have and to hold the ſaid Town and Circle of 12 Miles *of Land* about the ſame, Iſlands and Premiſes, with their Appurtenances, unto the ſaid *William Penn*, his Heirs and Aſſigns, to the only Uſe and Behoof of the ſaid *William Penn*, his Heirs and Aſſigns, for ever,

Yielding, and paying yearly, unto the Duke, his Heirs and Aſſigns, the Sum of 5*s.* at the Feaſt of St. *Michael* only.

And the ſaid *William Penn*, for himſelf, his Heirs and Aſſigns, covenants and grants to the Duke, to pay the ſaid yearly Rent of 5*s.* at the Days whereon reſerved.

And the Duke, for himſelf, his Heirs and Aſſigns, covenants and grants with the ſaid *William Penn*, his Heirs and Aſſigns, that the Duke, his Heirs and Aſſigns, will, at any time hereafter, during the Space of 7 Years next enſuing the Date hereof, upon the Requeſt, and at the Coſts and Charges in the Law of the ſaid *William Penn*, his Heirs and Aſſigns, do make and execute, *or cauſe or procure* to be made, done and executed, all and every ſuch *further Act* and Acts, Conveyances *and Aſſurances* in the Law, whatſoever, for the *further conveying and aſſuring* the ſaid Town, and Circle of 12 Miles *of Land* about the ſame, and Iſlands, and all other the Premiſes, with the Appurtenances, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever, as by the Council learned in the Law, of the ſaid *William Penn*, his Heirs or Aſſigns, ſhall be deviſed, adviſed, or required.

And the Duke thereby made, conſtituted, and appointed *John Moll* of *Newcaſtle* aforeſaid Eſq; and *Ephraim Harman* of *Newcaſtle* aforeſaid Gent. jointly, and either of them ſeverally, his Attorneys; and gives and grants unto them, or either of them, full Power and Authority, for him, and in his Name and Stead, into all and ſingular the Premiſes, and into every, or any Part or Parcel thereof, in the Name of the whole, to enter, and quiet and peaceable Poſſeſſion and Seiſin thereof, or of any Part or Parcel thereof in the Name of the whole, to enter and receive; and, after peaceable Poſſeſſion thereof had and taken, as aforeſaid, to deliver quiet and peaceable Poſſeſſion, and Seiſin thereof, or of any Part or Parcel thereof, in the Name of the whole, to the ſaid *William Penn*, his Heirs or Aſſigns, or to his or their lawful Attorney or Attorneys, ſufficiently authoriſed to receive and take the ſame; and him or them to leave in the quiet and peaceable Poſſeſſion thereof, according to the true Intent and Meaning of theſe Preſents.

And the Duke allows of, ratifies and confirms, whatſoever his ſaid Attorneys ſhall lawfully do, or cauſe to be done, in and about the Premiſes, by Virtue of theſe Preſents, to be as good and effectual in the Law, to all Intents and Purpoſes, as if the Duke had done the ſame in his own Perſon, or had been preſent at the doing thereof.

Signed and ſealed by the Duke of *York*, and witneſſed by *Jo. Werden*, and *Geo. Mann*.

This original Indenture is markt to be inrolled in ſundry Places, and at ſundry Times, *viz.* in the Office of Records for the Province of *New York*, on 21 *Nov.* 1682. in the Court of Exchequer in Trinity Term 1684. (the 36th of King *Charles* II.) in the Office of the Auditor of the Exchequer *ſans* Date thereto, and in the Office of the Clerk of the Pells, on 10 *Oct.* 1688. in the fourth of King *James* the Second,

As by the Original Indenture of Feoffment.

We have alſo a Copy thereof from the Records in *New York*, in——*New York* Records, N° 1. Fol. 122.

Aug. 24. *Another Original Indenture of Feoffment*, under the Hand and Seal of the Duke of *York*, between the Duke of the one Part, and the ſaid *William Penn* of the other Part, whereby (without any Recitals) the ſaid Duke, out of a ſpecial Regard to the Memory and *many faithful and eminent Services* thentofore performed by the ſaid Sir *William Penn* to his Majeſty and his Royal Highneſs, and for the *Good-will* which the ſaid Duke had and bore to the ſaid *William Penn*, and for the Conſideration of 10*s.* and of the *Rent and Covenants* herein after reſerved and contained, does bargain, ſell, enfeoff and confirm, unto the ſaid *William Penn*, his Heirs and Aſſigns for ever,

All that Tract of Land, upon *Delaware* River and Bay, *beginning* 12 Miles *South* from the Town of *Newcaſtle*, otherwiſe called *Delaware*, and extending South to the *Whorekills*, otherwiſe called *Capin Lopen*, together with free and undiſturbed Uſe and Paſſage into, and out of all Harbours, Bays, Waters, Rivers, Iſles and Inlets, belonging to, or leading to the ſame; Together with the Soil, Fields, Woods, Underwoods, Mountains, Hills, Fenns, Iſles, Lakes, Rivers, Rivulets, Bays and Inlets, ſcituate in, or belonging unto the Limits and Bounds aforeſaid,

Together with all Sorts of Minerals, and all the Eſtate, Intereſt, Royalties, Franchiſes, Powers, Privileges and Immunities whatſoever, of the Duke therein, or in or to any Part or Parcel thereof,

Saving and reſerving to the Duke, his Agents and Servants, free Uſe of all Ports, Ways and Paſſages into, through, and out of the Premiſes.

To hold to the ſaid *William Penn*, his Heirs and Aſſigns, to the only Uſe of the ſaid *William Penn*, his Heirs and Aſſigns for ever,

To

To be held of his Royal Highneſs and his Heirs, as of their Caſtle of *New York*, in free and common Soccage,

Yielding yearly to the ſaid Duke, his Heirs and Aſſigns, one Roſe at *Michaelmas*, if demanded.

And the ſaid *William Penn*, for himſelf, his Heirs and Aſſigns, *covenants and agrees* with the Duke, his Heirs and Aſſigns, that he the ſaid *William Penn*, his Heirs or Aſſigns, ſhall and will, within one Year next, erect a publick Office of *Regiſtry* upon the Premiſes, wherein he or they ſhall and will, amongſt other Things, truly *account*, ſet down, and regiſter, *all Rents and other Profits*, which he or they ſhall make, raiſe, get, or procure, of, in, or out of the ſaid Premiſes, and ſhall, at *Michaelmas* yearly, pay and deliver to the Duke, his Heirs and Aſſigns, *a Moyety of all Rents, Iſſues and Profits*, as well extraordinary as ordinary, as ſhall be made or raiſed by reaſon of the Premiſes.

And, if the ſame ſhall be behind by the Space of 20 Days after the ſame ought to be paid, then, and ſo often, it ſhall be lawful for the Duke, his Heirs and Aſſigns, to enter into, and upon the ſaid Premiſes, and there to *diſtrain*, and the Diſtreſſes to take and detain, until the ſaid Moyety and Arrears thereof ſhall be paid, together with all Coſts and Damages for the ſame.

Then follow the Duke's Covenants for *further Aſſurance*, and his Appointment of Attorneys *to deliver Seiſin*, in the *very ſame Words* as in the laſt Feoffment which was made of *Newcaſtle*.

Signed and ſealed by the Duke, and witneſſed by *Jo. Werden* and *Geo. Mann*.

This original Indenture is markt to be recorded in the Office of Records for the Province of *New York*, on 21 *Nov.* 1682.

As by this original Indenture of Feoffment alſo.

We have likewiſe a Copy thereof from the Records in *New York*, in——*New York* Records, N° 1. Fol. 124.

1682, *Oct.* 10. From the Records in *Kent* County, the Entry of a Bond from *Geo. Cullin*, of the County of *St. Jones's in the Province of* New York, to *Geo. Martin* of the ſame County and *Province*, conditioned for making over to the ſaid *Martin*, within a Year, in open Court for the County of *St. Jones's*, 500 Acres of Land on the South Side of *Miſtillion* Creek.——*Kent* Records, N° 14. Fol. 25.

Note, You are pleaſed to obſerve the Feoffments from the Duke were dated (here) but 24 *Aug.* 1682. and *ſome* Time it muſt have taken for Mr. *Penn* to prepare and go over with them.

Oct. 27. 28. An Entry taken from the *Newcaſtle* Records in the following Words; " On the 27th Day of *October*, 1682. arrived before the Town of *Newcaſtle* in *Delaware*, from " *England*, *William Penn* Eſq; Proprietor of *Penſilvania*, who produced *two* certain Deeds of *Feoffment*, from the illuſtrious Prince *James*, *Duke of York* and *Albany*, *&c.* " for this Town of *Newcaſtle*, and 12 Miles about it, and alſo for the two lower Counties, the *Whorekills* and *St. Jones's*, which ſaid Deeds bore Date 24th *Auguſt* 1682. " and, purſuant to the true Intent, Purpoſe, and Meaning of his Royal Highneſs in the ſame Deeds, he the ſaid *William Penn received Poſſeſſion* of the Town of *Newcaſtle*, " the 28th of *October*, 1682."——*Newcaſtle* Records, N° 11. Fol. 92.

Oct. 28. Another Entry, taken from the *Newcaſtle* Records, *viz.* " *Newcaſtle*, the 28th *October*, 1682. *Memorandum*, That the Day and Year firſt above written, *William Penn* " Eſq; by Virtue of an Inſtrument of Indenture, ſigned and ſealed by his Royal Highneſs *James* Duke of *York*, *&c.* did, then and there, demand *Poſſeſſion and Seiſin*, of " *John Moll* Eſq; and *Ephraim Herman* Gent. (Attorneys conſtituted by his ſaid Royal Highneſs) of the Town of *Newcaſtle*, otherwiſe called *Delaware*, with 12 Miles " Circle or Compaſs of the ſaid Town; That the *Poſſeſſion and Seiſin* was accordingly given, by the ſaid Attorneys, to the ſaid *William Penn*, according to the uſual Form, " by Delivery of *the Fort* of the ſaid Town, and leaving the ſaid *William Penn* in *quiet* and *peaceable Poſſeſſion* thereof, and *alſo*, by the Delivery of *Turf and Twig*, *and* " *Water and Soil of the River* Delaware; and that the ſaid *William Penn* remained in the peaceable Poſſeſſion of the Premiſes, as Witneſs our Hands the Day aboveſaid.—— " *Thomas Holme*, *William Markham*, Arnoldus de la Grange, *Geo. Ferman*, *Ja. Graham*, *Samuel Land*, *Richard Tugelo*, *Joſeph Curtis*, *John Smith*."——*Newcaſtle* Records, N° 11. Fol. 93.

Note, We have, in this preſent Cauſe, (58 *Years after this Tranſaction*) examined old Witneſſes, who were preſent at Mr. *Penn*'s taking Poſſeſſion, and at the Delivery of Seiſin to him.

Oct. 28. Another Entry from the *Newcaſtle* Records, *viz.* " We under written, being *Inhabitants* of the Town of *Newcaſtle* upon *Delaware* River, having heard the Indentures " *read*, made between his Royal Highneſs *James* Duke of *York* and *Albany*, *&c.* and *William Penn* Eſq; Governor and Proprietor of the Province of *Penſilvania*, *&c.* wherein " the ſaid Duke transferreth his Right and Title to *Newcaſtle*, and 12 Miles Circle about the ſame, with all Powers, and Juriſdictions, and Services thereunto belonging, *&c.* " unto the ſaid *William Penn*; and, having ſeen, by the ſaid Duke's appointed Attorneys, *John Moll* and *Ephraim Herman*, both of *Newcaſtle*, *Poſſeſſion given*, and by *our* " *Governor*, *William Penn* Eſq; *Poſſeſſion taken*, whereby we are made Subjects, under the King, *to the ſaid William Penn* Eſq; we do hereby, in the Preſence of God, " ſolemnly promiſe to yield to him all juſt Obedience, and to live quietly and peaceably under *his* Government. Witneſs our Hands this 28th Day of *October*, *Anno* 1682. " Arnoldus de la Grange, *Joh. D'haes*, *R. D. Burch*, *Will. Sempill*, *John Homez*, *Hendrick Lemmens*, *Joſeph Moore*, *Jean Bavins*, *Jonas Arſkin*, *Giles Barret*, *Peter Claſen*, " *Samuel Land*."——*Newcaſtle* Records, N° 11. Fol. 93.

We have a written *Map or Plan* of the Town of *Newcaſtle*, apparently very *ancient*; It appears to have been writ by ſome Foreigner, and Mr. *Hamilton* gives ſome Account of its having been of the Hand Writing of this *Arnoldus de la Grange*, before named, and of its having been found, by a *dead* Surveyor of *Newcaſtle* County, long ago, in the *Surveyor General's Office in* Newcaſtle. The Date is moſt *uncertain*, but it ſhews that the Town *anciently* was laid out regularly in *Streets*, and many of the Town Lots then taken up, at the Time of this Map; and indeed, it is obſervable, on many of the Grants of Town Lots in *Newcaſtle*, herein before ſtated, that thoſe Lots are ſaid to be lying in ſuch and ſuch *Streets*, as we find mentioned in this old Map.——The Exhibit is *Newcaſtle Map*.

Oct. 29. From the Records in *Suſſex* County. The Entry of a *Notification*, ſigned *William Penn*, dated at *Upland*, and directed to *William Clarke*, *Luke Watſon*, John Roades, *John Avery*, *Halmanus Wiltbank*, and *Alexander Moliſtone*; he notifies to them, that the Duke of *York* had, by Feoffment, dated 24 *Aug.* 1682. paſt and conveyed to him, from 12 Miles *Southward* of *Newcaſtle* upon *Delaware* River, to Cape *Henlopen*, together with the Powers and Juriſdictions thereunto belonging, reſerving unto himſelf *one Moyety* of the Rent thereof, whereby the ſaid *William Penn* becomes, alſo, Proprietary and Governor of the *before-mentioned* Tract of Land; He deſires *them* to meet him, next *Thurſday*, at the Town of *Newcaſtle*, being the 2d of *November*, where he intends *to hold a General Court for the ſettling the Juriſdiction of theſe*, and *your* Parts, in which they will oblige him.——If there be any Perſons of Note, or others, that deſire to be preſent, they may come freely, which you are deſired to communicate.——*Suſſex* Records, N° 17. Fol. 16.

Nov. 7. From the Records in *Suſſex* County, *Commiſſion* from *William Penn* Eſq; dated in *Newcaſtle*, whereby he, *as Proprietary*, *and Governor of* Penſilvania, Newcaſtle, St. Jones, Whorekill alias New Deal, with their proper Liberties, does, in the King's Name, conſtitute *Luke Watſon*, *William Clark*, John Roads, *John Avery*, and *Halmanus Wiltbank*, or any three of them, to be *Juſtices of the Peace*, and Court of Judicature for the County of *Whorekill alias New Deal*; this Commiſſion to be in Force for *one* Year, *or* till further Order.——*Suſſex* Records, N° 17. Fol. 17.

Same Day. From the Records in *Kent* County, *another like Commiſſion* from the ſaid *William Penn*, *under the like Titles*, and dated at *Newcaſtle*, appointing *Fran. Whitwell*, *William Durvall*, *John Hillyard*, *John Briggs*, and *Robert Hart*, or any three of them, to be *Juſtices of the Peace*, and Court of Judicature for the County of *St. Jones*, and an Act, or Entry, that it was publiſht in Court, and ordered to be recorded.——*Kent* Records, N° 14. Fol. 26.

Nov. 8. From the Records in *Kent* County, *A Writ*, under Mr. *Penn*'s Hand and Seal, directed to *Peter Baucomb*, High Sheriff of *St. Jones's* County, requiring him to ſummon *all the Freeholders*, within the Precinct of his Office, to meet on the 20th Inſtant, *and to elect* and chuſe, out of themſelves, *ſeven Perſons*, of moſt Note for Wiſdom, Sobriety and Integrity, to ſerve as their *Deputies and Repreſentatives*, in *General Aſſembly*, to be held at *Upland*, *in the Province of* Penſilvania, the 6th of *December* next, and then and there to conſult with him, for the *common Good* of the Inhabitants of *that Province*, *and the adjacent Counties* of *Newcaſtle*, *St. Jones's*, *Whorekill alias New Deal*, under his Charge and Juriſdiction, and to make a true and juſt *Return* to Mr. *Penn*.——*Kent* Records, N° 14. Fol. 26.

Same Day. From the Records in *Suſſex* County, *A Commiſſion* from Mr. *Penn*, appointing *John Vynes* to be Sheriff of the County of *Whorekill alias New Deal*.——*Suſſex* Records, N° 17. Fol. 18.

Same Day. Alſo Mr. *Penn*'s like *Writ*, to him directed, to ſummon all the *Freeholders* of that County, to elect ſeven Perſons as *their* Repreſentatives, for the *General Aſſembly*.——*Suſſex* Records, N° 17. Fol. 18.

Nov. 14. From the *Suſſex* Records, an Entry of a Paper ſigned and ſealed by ſeveral of the Juſtices by Mr. *Penn* appointed for that County, whereby, in purſuance of their Commiſſion, they do, in the Preſence of God, declare and promiſe to act juſtly, and faithfully diſcharge their Truſt.——*Suſſex* Records, N° 17. Fol. 19.

Nov. 20. From the Records in *Kent* County. *Peter Bawcomb* ſigns and ſeals, before the open Court, that he being appointed *Sheriff* of the County of *St. Jones's* by Mr. *Penn*, he *declares*, and ſolemnly promiſes, in the Preſence of God, juſtly to execute his Office, and diſcharge his Truſt.——*Kent* Records, N° 14. Fol. 27.

Same Day. From the Records in *Kent* County, five of the *Juſtices* for *St. Jones's* County being appointed by Mr. *Penn*, ſign and ſeal the like ſolemn *Declaration*, on their Parts.——*Kent* Records, N° 14. Fol. 27.

Nov. 21. From the *New York* Records, it appears that the two Feoffments from the Duke of *York* to Mr. *Penn*, were, *on this Day*, entered in their Records.——*New York* Records, N° 1. Fol. 123. and Fol. 126.

Same Day. From the *New York* Records, *A Declaration*, by the Commander in Chief and Council, dated in *New York*, recites *both* the Duke's ſaid Feoffments to Mr. *Penn*, and the Duke's Appointments, therein contained, of Perſons to deliver *Poſſeſſion* of the ſaid Premiſes to Mr. *Penn*, as by the ſaid Indentures, here produced and ſhewn to us, and by us well approved of and entered in the publick Records of this Province, does appear. And we, being thereby *fully* ſatisfied of the ſaid *William Penn*'s Right to the Poſſeſſion and Enjoyment of the Premiſſes, have, therefore, thought fit and neceſſary to ſignify and declare *the ſame* to *you*, to prevent any Doubt or Trouble that might ariſe or accrue, and to give you our Thanks for your good Services, done in your ſeveral Offices and Stations, *during the Time that you remained under his Royal Highneſs's Government*; expecting no *further* Account, than that you readily ſubmit and yield all due Obedience and Conformity to the Powers granted to the ſaid *William Penn* in and by the ſaid Indentures; in the Performance and Enjoyment of which we wiſh you all Happineſs.——This Declaration is directed, To the ſeveral Juſtices of the Peace, Magiſtrates, and other Officers, at *Newcaſtle*, *St. Jones*, *Deal*, *alias* the *Whorekill*, *at Delaware*, or, within *any* of the Bounds and Limits above-mentioned.——*New York* Records, N° 1. Fol. 127.

We have *another* Entry of this *Declaration*, which is there ſigned by the Commander *Anthony Brockholls*, and counterſigned, by Order in Council, *John Weſt* Clerk of the Council; which is entered in—*Newcaſtle* Records, N° 11. Fol. 92.

From the *Newcaſtle* Records, we have an Entry of a *Certificate*, or Declaration, ſigned *John Moll*, (but *without Date*) wherein he *relates* that Mr. *Penn*, at his firſt Arrival from *England* by the Town of *Newcaſtle*, in the Month of *October* 1682. ſent a Meſſenger aſhore, to give Notice to the Commiſſioners of his Deſire to ſpeak with them aboard; that Mr. *Moll* (being then left the *firſt* in Commiſſion by Sir *Edmund Andros*, Governor under the Duke of *York* of all his Territories in *America*) did go aboard, with ſome more of the Commiſſioners; when Mr. *Penn* ſhew'd him the *two* Feoffments, the one for the County of *Newcaſtle*, *with* 12 *Miles Diſtance North and South thereunto belonging* [pleaſe to obſerve Mr. *Moll*'s underſtanding of the Terms of that Feoffment] The other for, *&c.* with Powers of Attorney to me, and *Ephraim Herman deceaſed*, to deliver Poſſeſſion to Mr. *Penn*; but the ſaid *Herman*, being gone from home, was not aboard, at that Time; I therefore, deſired, from Mr. *Penn*, 24 Hours to conſider with *Herman* and the reſt of the Commiſſioners about it; In which Time we *unanimouſly* agreed to comply with the Duke's Orders, Whereupon, by Virtue of the Powers given to us by the ſaid Letters of Attorney, we did give and ſurrender, in the Duke's Name, to Mr. *Penn*, actual and peaceable Poſſeſſion of the *Fort* at *Newcaſtle*, by giving him the Key thereof to lock upon himſelf alone the Door; which being open'd by him again, we did deliver, alſo, to him, one *Turf*, with a *Twig* upon it, a Porringer with *River Water* and *Soil*, in Part of all that was ſpecified in the ſaid Indenture, and according to the true Intent and Meaning thereof.——And, *few Days after that*, we went to the Houſe of Captain *Edmund Cantwell*, at the South Side of *Apoquemining* Creek, by Computation, above 12 Miles *Diſtance* from the Town of *Newcaſtle*, as being Part of the *Two lower Counties* mentioned in the Duke's *other* Feoffment; and, after we had ſhewn to the Commiſſioners of *thoſe* Counties, the Power and Orders given to *us* as aforeſaid, we aſkt them if they could ſhew any Cauſe why we ſhould not proceed to act and do *there*, as we had done at *Newcaſtle*? And, finding no manner of Obſtruction, *we made*, *then and there*, in the Duke's Name, the ſame Manner and Form of Delivery, as we had done at *Newcaſtle*;——Which acting of us, was fully accepted and well approved of, by *Anthony Brockholl*, *then* Commander in chief, and his Council, at *New York*, as appears by their Declaration dated 21 *November* 1682. *from which Juriſdiction we had our Dependance*, *all along*, *ever ſince the Conqueſt*, *until we had made the above related Delivery* to Mr. *Penn*, by Virtue of the *Duke's* Orders and Commands.——*Newcaſtle* Records, N° 11. Fol. 94.

Nov. 21. From the *Suſſex* Records, the Return made by *John Vines* Sheriff, to Mr. *Penn*, that, in obedience to his Warrant of the 8th Inſtant, he did ſummon all the *Freeholders*, and that they, with a *general* Vote, did elect and chooſe *Edward Southbrin*, *William Clark*, *Alexander Draper*, John Roades, *Luke Watſon*, *Nathanael Walker*, and *Cornelius Verhoof*.——*Suſſex* Records, N° 17. Fol. 19.

Dec. 6. An original Paper, *or Petition*, ſigned by thoſe particular ſeven Perſons for *New Deal* alias *Whorekill*, by ſix more for *St. Jones*, and by five more for *Newcaſtle*, directed to the Honourable Proprietor and Governor of *Penſilvania*, intitled, The humble *Requeſt* of the Freeholders of the *Three Countys* of *Newcaſtle*, *Jones*, and *New Deal* alias *Whorekill*, humbly deſiring that they may be favoured with *an Act of Union*, by the Governor and Aſſembly, for their *Incorporation* in and with the Province of *Penſilvania*, in order to their Enjoyment of *all* the Rights and Privileges of the aforeſaid *Province*; and that they might, for ever after, be eſteemed and accounted as Freemen of the before-named *Province*; *This* being our Deſires and humble Requeſt in the Aſſembly, we have deſired the *Preſident* and two other Members of the Upper Counties, Part of this Province, to preſent it to your Honour; and if we are ſo happy to obtain our Requeſt, we will, for ever, acknowledge it, and in all Faithfulneſs ſubſcribe ourſelves your in all lawful Obedience.——This Original Paper is proved by *Patrick Baird*, and is *Penſilvania* Exhibit D D.

From

1682, *Dec.* 6. From the Records of *Penſilvania*—*An Act of Aſſembly* with this Title, *The Laws of* Penſilvania *and Territories thereunto belonging*, made by the Governor and Freemen of the Province, in a General Aſſembly held at *Cheſter* alias *Upland*, the 6th of *December* 1682. *An Act of Union* for annexing and uniting of the Counties of *Newcaſtle*, *Jones's*, and the *Whorekills* alias *New Dale*, to the Province of *Penſilvania*. It recites the Letters Patent for *Penſilvania*, granted by King *Charles* to Mr. *Penn*, and that the Duke of *York* had releaſed his Right and Claim to every Part of that Province to Mr. *Penn*, whereby he was become the undoubted and rightful Proprietary and Governor of *that* Province, and was thereby ſo recognized and acknowledged.——It alſo recites that, as a *beneficial* and *requiſite* Addition to the ſaid Territory, it had pleaſed the Duke of *York* to grant to Mr. *Penn* all that Tract from 12 Miles *Northward* of *Newcaſtle* on the River *Delaware*, down to the *South* Cape *commonly* called Cape *Henlopen*, and by the Proprietary and Governor *now* called *Cape James*, lying on the Weſt ſide of the ſaid River and Bay, formerly poſſeſt by the *Dutch*, and bought by them of the Natives, and *firſt* ſurrendred up, on Articles of Peace, to the Lieutenant-Governor Colonel *Nicholls*, and a *ſecond* time, to Sir *Edmund Andros*, Lieutenant-Governor to the ſaid Duke, and had been by him quietly poſſeſt and enjoyed; and alſo the ſaid River of *Delaware*, and Soil thereof, and all Iſlands therein, lately caſt into three Counties, called *Newcaſtle*, *Jones's*, and *Whorekills* alias *New Dale*, together with all Royalties, Powers and Juriſdictions thereunto belonging, as by two Deeds of Feoffment, dated 24th *Auguſt* 1682, may appear.——And for that, there muſt always be a *People*, before there can be a *Government*, and *that* People muſt be *united* and free, in order to ſettle and encourage them for the *Proſperity* of the *Government*; and ſince the *Inhabitants* of that Tract, lately paſſed from the Duke, are not yet under the *ſame* Capacity with thoſe in *Penſilvania*; and, reciting the ſaid Requeſt of the Freemen of the ſaid County, and as the *Union* of two *diſtinct* People, that are under *one* Government, is moſt *deſirable* in itſelf, and *beneficial* to the Publick, and that it cannot be ſo durably maintained, to the mutual Benefit of each other, as by making them *equally* Sharers in Benefits and Privileges——*It is enacted* by the Proprietary and Governor, by and with the Advice and Conſent of the Deputies of the Freemen of the ſaid Province *and Counties, in Aſſembly met*, that the Counties of *Newcaſtle*, *Jones's*, and *Whorekill* alias *New Dale*, ſhall be, and are, *annexed* unto the Province of *Penſilvania*, *as of the proper Territory thereof*; and the People therein ſhall be governed by the *ſame Laws*, and enjoy the *ſame Privileges*, in all Reſpects, as the Inhabitants of *Penſilvania* do or ſhall enjoy from time to time therein.——This is proved by *Charles Brockden* Deputy-Maſter of the Rolls, to be a true Copy, and is in——*Penſilvania* Records, N° 7. Fol. 2.

Dec. 18. From the *New York* Records, the Entry of a *Letter* from Captain *Brockholls* to Sir *John Werden*. Sir, I received your's of the *twenty fourth of Auguſt* paſt the 4th of *December*; but, *too late* to aſſiſt or ſerve Mr. *Penn* in giving *Poſſeſſion* of what his Royal Highneſs has been pleaſed to grant him; being *before* poſſeſt thereof by the Perſons impowered in the Body of the Deeds, which Mr. *Penn*, having ſince been *here*, hath ſhewn and recorded.—Am ready to obey all his Royal Highneſs's Commands, and ſerve his Intereſt, *but fear what left of his Province not able to defray the Charge.* I am, *&c.*——*New York* Records, N° 1. Fol. 126.

Dec. 21. From *Kent* County Records, Proprietary *Penn*'s *Commiſſion*, or Authority, under his Hand and Seal, dated at *Cheſter*, and directed to the Juſtices of the Peace for the County of *Kent*; wherein he orders and appoints them, *in open Court* to receive all Petitions from Perſons wanting to take up Land amongſt them, to grant Warrants to the Surveyor to meaſure the ſame, not to exceed 300 Acres to a Maſter of a Family, nor 100 to a ſingle Perſon, at one ſingle Penny *per* Acre, or Value thereof in the Produce of the County; which done, the Surveyor to make his Return to the Court, and the Court make their Return into *my Secretary's Office*; all Lands formerly granted, and not taken up and ſettled within the Time limited by the Methods of your own Court, ſhall be accounted *vacant* Land; all Perſons, for the future, that ſhall have Grants, ſhall be limited to ſeat *in a Year*, elſe the Grants to be void: Endeavour to ſeat the Lands by way of *Townſhips*, as 3000 Acres amongſt 10 Families; if ſingle Perſons 1000 among 10 of them, laid out in a *long Square*, 5 or 10 of a ſide, and a Way, of 200 Feet broad, left between them, for a Highway in the Townſhip, for the future Good and great Benefit of the County.—*Newcaſtle* Records, N° 11. Fol. 28.

Dec. 25. From *Kent* County Records, Proprietary *Penn*'s *Commiſſion*, under his Hand and Seal, dated at *Cheſter*, in the *ſecond* Year of his Government, appointing ſeven Perſons to be *Juſtices of the Peace* in the Juriſdiction of the County of *Jones's*, which my Will and Pleaſure is ſhall, from henceforth, be called by the Name of *Kent*; the Extent whereof ſhall be from the South-ſide of the moſt Northerly main Branch of *Duck-Creek* Northwards, and Southward to the North-ſide of the main Branch of *Miſpillion-Creek* called the Three Runs; and they, or any four of them, to be *a Court of Judicature*; This Commiſſion to be of Force for *one* Year, or till further Order.——*Newcaſtle* Records, N° 11. Fol. 29.

Same Day. Governor *Penn*'s *Letter* to thoſe Juſtices, exhorting them moſt *pathetically*, to do Juſtice by virtue of their Commiſſion; and alſo telling 'em that he thinks fit that an exact *Catalogue* be returned to him, of the *Names* of all the People of their County, Maſters, Miſtreſſes, Servants, Parents, Children, alſo the Number of *Acres* each Freeholder has, and by whom, and when, granted, *&c.*——*Newcaſtle* Records, N° 11. Fol. 30.

Same Day. Proprietary *Penn*'s *Commiſſion* under his Hand and Seal dated at *Cheſter*, in the 2d Year of his Government, in like manner appointing ſeven Perſons, *viz. William Darvall*, *Luke Watſon*, *Norton Claypole*, John Roades, *Edward Southrin*, *Robert Hart*, and *John Kyphaven*, to be *Juſtices of the Peace* in the Juriſdiction of the County of the *Whorekills*, which he wills, from henceforth, ſhall be called by the Name of *Suſſex*; *the Extent whereof ſhall be* from the main Branch of *Miſpillion Creek*, called the Three Runs, Northwards, and *Southwards to* Aſſawament *Inlett*, *reputed and accounted Cape* Henlopen, *which ſaid Cape* Henlopen, *I will, from henceforward, have called by the Name of Cape* James; And you or any four of you to be a Court of Judicature. This Commiſſion to be in Force for a Year or till further Order.——*Suſſex* Records, N° 17. Fol. 20.

Note well, Mr. *Penn* had not then been *two Months* in the Country, and he ſcarce foreſaw the *preſent* Diſpute, yet, then, nay three Weeks *before*, in the Act of Union, he called *Cape Henlopen*, juſt where the *ancient* Maps called it, and where Lord *Baltimore*'s Map, and our Map, (uſed 50 Years afterwards in 1731. and 1732.) called it.

Same Day. Another Entry of Proprietary *Penn*'s *Letter*, ſent to the Juſtices of *Suſſex* County *in totidem verbis* as the former.——*Suſſex* Records, N° 17. Fol. 21.

Same Day. Another Entry of Proprietary *Penn*'s *Orders and Limitations* about taking up *Lands*, *in totidem verbis*, as the former ſent to *Kent* County.——*Suſſex* Records, N° 17. Fol. 22.

Same Day. Another *Commiſſion* from Proprietary *Penn*, conſtituting *William Clark* to be *Clerk* of the *Court* of *Seſſions* for the County of *Suſſex*, and *Regiſter* of the ſaid County.—*Suſſex* Records, N° 17. Fol. 23.

Dec. 26. From the *Suſſex* Records an *Order*, under Proprietary *Penn*'s Hand and Seal, to the Juſtices of the Peace of the County of *Suſſex*, that, before any Land be ſurveyed, for any *other* Perſon, they iſſue a Warrant, to the Surveyor, to lay out, *for the Duke of York*, in *their* County or Precincts, 10,000 Acres of Land for a *Manor*, and 10,000 Acres for a Manor for Governor *Penn*; and he would have the *Duke's* Manor lie on the *North* ſide of *Aſſawarmet Inlett*, *as near to Cape* James *as may be*, and his own Manor to be between the Bounds of *Cedar-Creek* and *Miſpillion-Creek*, or in the moſt convenient Place towards the North ſide of the County.——*Suſſex* Records, N° 17. Fol. 23.

Dec. 26. From the *Kent* Records, another like *Order* under Proprietary *Penn*'s Hand and Seal, to iſſue a Warrant to the Surveyor *to lay* out in *their* County or Precincts, 10,000 Acres for a *Manor* for the *Duke* of *York*, and 10,000 Acres for a Manor for *himſelf*, in the beſt Places for ſound and good Land and Water.——*Kent* Records, N° 14. Fol. 31.

Jan. 9. From the *Suſſex* Records, an Entry of a *Declaration*, ſigned and ſealed by the Juſtices which had been appointed by Proprietary *Penn*, whereby they acknowledge *him* to be their rightful Proprietor, and make a ſolemn Promiſe to diſcharge their Commiſſion faithfully, and if they ſhould do otherwiſe, then to ſuffer and undergo the ſame Fine or Puniſhment as if they had taken an *Oath*.——*Suſſex* Records, N° 17. Fol. 20.

Jan. 16. At a Court held for the County of *Kent* under Proprietary *Penn*, *the Court orders* the Clerk to give out a Warrant, directed to the Surveyor, to lay out 10,000 Acres of Land for the Duke of *York*, on the *Rich Rigge*, in the Road to *Choplanck*, and to the Heads of the Branches of the *Murther-Creek*, or where they will in any *other* clear Land; it being for a *Manor* for the *Duke* of *York*, granted by a ſpecial Order from the Proprietary and Court for the ſame.——And they make another like Order, for a Warrant to lay out 10,000 Acres for Proprietary *Penn*, at the South-ſide of the main Branch of *Duck-Creek*, and ſo towards *Jones's Creek*.——*Kent* Records, N° 14. Fol. 31.

Same Day. All the Juſtices of *Kent* County, ſign and ſeal a like *Declaration* of Acknowledgment of Mr. *Penn*'s being their Proprietary, and a ſolemn Promiſe faithfully to execute his Commiſſion, under Pain of the ſame Fine and Puniſhment as if they had taken an Oath.——*Kent* Records, N° 14. Fol. 32.

Feb. 13. *A Deed* recorded in *Suſſex* County whereby *Luke-Watſon* of *Suſſex* County, in conſideration of 30 *l. Sterling*, conveys to *Samuel Gray* alſo of *Suſſex* County formerly called the *Whorekill*, a Parcel of Land of 196 Acres called *St. Giles's*, on the Weſt-ſide of *Delaware* Bay, *Weſt* from the *Whorekills* about *a Mile* from *Pagan-Creek*, which Piece of Land had been heretofore granted on 24th *June* 1676. by the *Duke* of *York* by his Grant under the Great Seal of *New York*, uſed for granting of Land; free of all Incumbrances, the Rent and Services *reſerved to the Duke of* York and his Aſſigns only *excepted*.——*Suſſex* Records, N° 17. Fol. 24.

Feb. 21. *An Original Aſſignment*, made by way of Endorſement upon the *Indian* Purchaſe which was made the 10th of *July* 1680, whereby, *that* Purchaſer, *John Moll*, aſſigns all his Right, Title and Intereſt to the therewithin mentioned, unto Proprietary *Penn*; *Moll's* own Plantation of 200 and odd Acres of Land in *White-Clay Creek* only excepted.——This is proved by *Patrick Baird* and is the——*Penſilvania* Exhibit F F.

35° Car. II. 1682. *Mar.* 22. From the Chappel of the Rolls, a Copy of Letters Patent granted to *James* Duke of *York* his Heirs and Aſſigns (without any Recital) of

All that the *Town* of *Newcaſtle*, otherwiſe called *Delaware*, and *Fort* therein or thereunto belonging, ſcituate lying and being between *Maryland* and *New Jerſey* in *America*; and all that Tract of Land, lying within the Compaſs or Circle of 12 Miles about the ſaid Town, ſcituate, lying and being upon the River of *Delaware*; and all Iſlands in the ſaid River *of Delaware*; and the ſaid River and Soyl thereof, lying North of the Southermoſt Part of the ſaid Circle of 12 Miles about the ſaid Town; and all that Tract of Land, upon *Delaware* River and Bay, *beginning* 12 Miles *South* from the ſaid Town of *Newcaſtle* otherwiſe called *Delaware*, and extending *South* to Cape *Lopin*; together with all the Lands, Iſlands, Soil, Rivers, Harbours, Mines, Minerals, Quarries, Woods, Marſhes, Waters, Lakes, Fiſhings, Hawkings, Huntings, Fowlings, and all other Royalties, Privileges, Profits, Commodities and Hereditaments to the ſaid Town, Fort, Tracts of Land, Iſlands and Premiſes, or to any or either of them, belonging or appertaining, with their and every of their Appurtenances, ſcituate, lying and being in *America*.

And all the King's Eſtate, Right, Title, Intereſt, Benefit, Advantage, Claim and Demand whatſoever of in or to the ſaid Town, Fort, Lands or Premiſes, or any Part or Parcel thereof; and the Reverſion and Reverſions, Remainder and Remainders thereof; together with the yearly and other Rents, Revenues and Profits of the Premiſes, and of every Part and Parcel thereof.

To hold to the ſaid Duke of *York* his Heirs and Aſſigns for ever, to be held of the King his Heirs and Succeſſors, as of the Manor of *Eaſt Greenwich* in free and common Soccage, and not *in Capite* or by Knight's-Service.

Yielding and rendering, and the Duke of *York* for himſelf his Heirs and Aſſigns covenants and promiſes to yield and render, to his Majeſty his Heirs and Aſſigns, yearly, four Beaver Skins, when demanded.

And the Crown thereby grants to the Duke of *York*, his Heirs and Aſſigns, Power to *govern*, puniſh, make Laws, *&c.* (and reſerves Appeals to the Crown) and to appoint and revoke Governors, Officers, Miniſters, *&c.*——This Copy is proved from the Rolls by *Paris*, and is *Rocha* N° 6.

Note, The Defendant cannot bring himſelf in his Anſwer to *believe* that *ever* theſe lower Counties were *expreſsly* granted by the Crown to the Duke of *York*, but it is plain from the above that they were.——But then he ſays, that this Grant was made to the Duke *after* his Feoffments were executed to Mr. *Penn*, and it is certain that it was, almoſt, not quite, ſeven Months after the Date of the Duke's Feoffments to Mr. *Penn*; and the Defendant ſuppoſes that the Duke obtained this Grant *for himſelf*, and not for Mr. *Penn*, and never made any ſubſequent Conveyance to Mr. *Penn* after this Patent: But that is not to be ſuppos'd, nor can legally be ſuppos'd; the legal and the fair Preſumption is, that the Duke, who, not 7 Months before, had covenanted to procure *further Aſſurance*, did obtain this new expreſs Grant of the 3 lower Counties in Performance of his Covenants, and for the Benefit of Mr. *Penn*; and, as this new Grant *muſt* either have been intended for the Benefit of the *Duke himſelf*, (as the Defendant inſiſts) or of Mr. *Penn*, (as we inſiſt) we have a Fact that will determine that Queſtion;

33° Car. II. 1682, *Mar.* 22. For, we have the *very Original* Charter *itſelf*, under the Great Seal, in our Cuſtody, ready to produce, which, if the Duke had intended for *himſelf*, and *to defeat our Title by*, *he* would have kept, and not Mr. *Penn*, who was, at this Time of paſſing it, and for a conſiderable Time longer, over in *America*.

As to Mr. *Penn*'s obtaining further Aſſurance from the Duke, after this expreſs Grant to the Duke, within the 7 Years, the Duke, ſoon after Mr. *Penn*'s Return to *England*, became King, and afterwards abdicated, before the 7 Years expired. Beſides, as will be obſerved by and by, the particular Bounds of the lower Counties were not *ſettled*, much leſs the Lines, to divide them from *Maryland*, *run*.

And, had the Duke of *York* continued a Subject, Mr. *Penn* might have compelled him to have made further Aſſurance, which being the Caſe, The Crown, (which was never adviſed to take Advantage of defective Titles in *America*, if *Poſſeſſion* and *Improvement* had followed) will never, we truſt, be adviſed to it, in this Caſe, after near 80 Years Poſſeſſion, and ſuch an Improvement, and fine Colony as this ſettled, by one private Gentleman, to the Ruin of his own private Fortune and Family, and without a Shilling Expence (in *any* Shape *whatever*) ever contributed by the *Crown*, or the *Publick*; by which Improvement, and the great Privileges Mr. *Penn* granted to the Settlers, he has, in Effect, purchaſed to the King, many Thouſands of new Subjects, being *Foreigners*, who have fled from Tyranny and Oppreſſion in their own native Countries, thither, for an Aſylum and Place of Refuge. And this Colony is now ſo finely ſettled, that it is not 2 Years ago ſince they furniſht the King with 895 Men, for the Expedition againſt the *Spaniſh Weſt Indies*; a far greater Number than was furniſht by *any other* Colony in *America*. This is, doubtleſs, *not* in the preſent Cauſe, but is a *Digreſſion* from it, however hope this *ſhort* Digreſſion may be excuſed, on ſo great a Part of the Plaintiff's Caſe.

And thus have we travelled thro' this very long 5th Chapter, from the new Charter granted to the Duke of *York* in 1674, down to the Time of Mr. *Penn*'s being *in full Poſſeſſion* of *Penſilvania*, and the lower Counties, in 1682.

Chap.

Chap. VI. An Account of what paſt (in *America*) in the Years 1683, 1684, and 1685. (excluſive of what paſt *in England* during thoſe Years.)

1683, *Apr.* 23. FROM the Records in *Kent* County, at a Court held for the County of *Kent* by Commiſſion from *William Penn*, Proprietary and Governor of *Penſilvania*, and Territories thereunto belonging, Captain *William Markham* Deputy Governor, preſent the Commiſſioners —— The Proprietary made his Speech to the People, and, afterwards, the Deeds of theſe lower Parts was read, before the People, in open Court; then the Laws of the Government read, in open Court. ——— *Kent* Records, N° 14. Fol. 33.

July 26. From the Original Returns in the Surveyor General's Office in *Penſilvania*, a Return, ſigned by *J. Barkſtead* by Order of *William Clark*, that, by Virtue of a Warrant from *William Penn*, Proprietary and Governor of the Province of *Penſilvania*, and the Territories thereunto belonging, bearing Date the 4th Day of *May* laſt, to him directed, by *William Clark*, *Chief Surveyor* of the Counties of *Suſſex* and *Kent*, Layd out, *for James Duke of York*, a Tract of Land, lying and being on the *North Side of Aſſawormenett River and Inlett*, in the Territories of the Province of *Penſilvania*, in the County of *Suſſex*, beginning at a Corner markt White Oak, ſtanding in a Hommack, near the Mouth of the Inlett of *Aſſawormenett*, and running, from thence, up the River, bounded therewith, on ſeveral Courſes, 1620 Perches, *&c. &c.* Layd out for 10,000 Acres of Land. Surveyed the 26th of *July*, 1683. by me *J. Barkſtead* by Order of *William Clark*. ——This is proved to be a Copy by *Benjamin Eaſtburn* Eſq; Surveyor General, and is in the Exhibits from the Surveyor General's Office, N° 8. Fol. 1.

Note, Proprietor *Penn* had ordered the laying out this Tract for the Duke *in this very Place*, ſo long ago as 26 *December* 1682, as has appeared in his Order to the Juſtices of *Suſſex* County of *that* Date. And this *very Spot* comes to *the* Cape *Henlopen* which we inſiſt on, and is very material to be obſerved.

Sept. 17. An old worn out *Copy* of a *Commiſſion* ſuppoſed to have been ſigned and ſealed by Lord *Baltemore*, wherein the ſaid Lord *Baltemore* took the Title of Proprietor of *Maryland*, and directed that Commiſſion to his dear Couſin and Councillor *Geo. Talbot* Eſq; and appointed the ſaid *Talbot* to repair, forthwith, to the *Skoolkill* at *Delaware*, and in Lord *Baltemore*'s Name to demand of *William Penn* Eſq; or his Deputy, all that Part of Land, on the *Weſt* Side of the ſaid River, that lyeth to the *Southward of the 40th Degree* Northerly Latitude, according to an Eaſt Line run out, from two *Obſervations*, the one taken on 10 *June* 1682, and the other the 27th of *September* 1682, in Obedience to his Majeſty's Commands, expreſt in a Letter of the 2d of *April* 1681; which Commands were, at that time, rejected by the Agents of the ſaid *Penn*, notwithſtanding that (by ſeveral Letters and Writings under their Hand it may appear) they promiſt a *Compliance* with his Majeſty's Commands aforeſaid; and, for what you ſhall do herein, this ſhall be to you a ſufficient Power. ——— *Penſilvania* Exhibit B. B. ſpoke to by *Patrick Baird*.

Sept. 24. Upon the *ſame* Paper, an old worn out *Copy* of a *Demand*, ſuppoſed to be ſigned and ſealed by *Geo. Talbot*, wherein *He*, by Virtue of his Lordſhip's Commiſſion, whereof he ſaid *that*, which was there above written, was a true *Copy*, He the ſaid *Talbot* did, in the Name of Lord *Baltemore*, demand, of *Nicholas Moore*, Deputy to *William Penn* Eſq; all the Land, lying on the Weſt Side of *Delaware* River, and to the *Southward of the 40th Degree* of Northerly Latitude, according to a Line run Eaſt, from two *Obſervations*, *&c. ut ſupra* ——; The Land, ſo claimed by me for Lord *Baltemore*'s Uſe, being Part of the Province of *Maryland*, granted to his Lordſhip's Father by King *Charles* the Iſt of ſacred Memory, and *now wrongfully detained by the ſaid* William Penn *from his Lordſhip*; And in Witneſs that I make this Demand I have hereunto ſet my Hand and Seal. ——This is alſo ſpoke to by *Patrick Baird*, and is the *Penſilvania* Exhibit B. B.

Octob. 28. From the Original Returns in the Surveyor-General's Office in *Penſilvania*, *another Return* ſigned by *J. Barkſtead* by Order of *William Clark*, that, by virtue of a Warrant from Proprietary *Penn*, dated the of *May* laſt, to him directed by *William Cark*, *Chief Surveyor* of the Counties of *Suſſex* and *Kent*, laid out for the ſaid Proprietor *Penn* a Tract of Land, being on the *South* Side of *Rehoboth Bay*, in the *Territories* of the Province of *Penſilvania*, and in the County of *Suſſex*, bounding, on one ſide, along the Line of the Duke of *York*'s Manor, containing and laid out for 4790 Acres of Land, ſurvey'd the 28th *October* 1683, by me *J. Barkſtead*, by Order of *William Clark*. —— This is proved to be a Copy by *Ben. Eaſtburn* Eſq; Surveyor-General, and is in the Exhibits from the Surveyor General's Office, N° 8. Fol. 1.

Octob. 31. Upon the ſame Paper with the Copy of Lord *Baltimore*'s Commiſſion to Colonel *Talbot*, and with Colonel *Talbot*'s Demand made by Vertue of ſuch Commiſſion, is an *Original Paper ſigned by Proprietor* Penn, of this Date, being his Anſwer to that Demand. ——In which Anſwer Proprietor *Penn*, Firſt, takes notice that, along with that Demand, Lord *Baltimore* ſhould have ſent ſome Letter or Memorial to ſtate his Demand. Secondly he objects to the Stile and Language of the Commiſſion. Thirdly he ſays that he, nor any Deputy of his, do live on the Weſt ſide of *Skuilkill*. Fourthly he ſays he was *abſent* at *New York*, when this Commiſſioner came, and never did, nor will, commiſſionate *his* Deputy to treat and conclude his Inheritance, without his particular Directions and Command. Fifthly he ſays that Colonel *Talbot* is directed in the Commiſſion to make his Demand according to a Line, which is ſaid to be run *in Obedience* to his Majeſty's Commands; and the King's Letter of 2 *April* 1681. expreſly ſaid that the Lord *Baltimore* or his Agent, ſhould, *together with Mr.* Penn's *Agent*, *agree* the Latitude and *then* run the Line and bound the Provinces; which (ſays Mr. *Penn*) is *not* yet done; for, thoſe Obſervations, and the Line run by them, are performed by Lord *Baltimore* and his Agents *only*, and therefore, *not* according either to the King's Commands, or to common Equity, for Mr. *Penn* ſaid *He knew nothing of them*. ——Sixthly, To pretend (as the Commiſſion does) that Mr. *Penn*'s Commiſſioners refuſed to comply with the ſaid Letter is hard for him to do, *for* Lord *Baltimore* would have had them agreed to have taken an Obſervation upon the *River Delaware*, whereas the King's Letter (ſtating Mr. *Penn*'s Bounds as they are expreſt in his Patent) begins 12 Miles above *Newcaſtle*, upon the Weſt ſide of *Delaware* River, ſo to run to the three and fortieth Degree of Northern Latitude upon the ſaid River; which makes it *impoſſible* that Lord *Baltimore* ſhould come within thoſe Limits to take an Obſervation, or to run a Line, *in perſuance* of the King's Commands in the ſaid Letter; ſince, taking an Obſervation on *Delaware* River (which, ſay they, he preſt) is a plain *Violation* of it. They further ſay, that *they never refuſed, but preſt*, taking an Obſervation *according* to the King's Letter, which was grounded on the Bounds of Mr. *Penn*'s Patent; and when Lord *Baltimore*, and Mr. *Penn*'s Agent, had agreed to meet at *Newcaſtle*, and to proceed *according* to the King's Letter, it's true that Mr. *Penn*'s Agent came not, and as true, that the *Reaſon* was, that Lord *Baltimore* called, immediately, at *Chicheſter* alias *Marcus Hook*, as he went to *Newcaſtle*, and forbade the Inhabitants to pay me *Quit Rent*, and named the Place by a new Name, *before any Line was run, or any Obſervation agreed*; which, being a declared Breach, both of the King's Commands, and of their Treaty, in the Opinion of Mr. *Penn*'s Agent, the ſaid Agent refuſed to meet next Day, about a Matter the Lord *Baltimore* had, in *ſuch* a manner, already determined. ——Seventhly, But what fault ſoever *they* were in, Mr. *Penn* ſays that he is ſure, that, before an Obſervation was agreed, or *any* Line was run, he came in *himſelf*, and ſuddenly after waiting upon the Lord *Baltimore*, preſented him with *another* Letter from the King, which he was ſo far from complying with, that he lookt upon the King as *miſtaken*, and ſet his Patent in direct Oppoſition, and, to this day, would never hear of complying with it. ——Now, in Mr. *Penn*'s Opinion, it was not proper to ground Lord *Baltimore*'s Proceedings, upon a *former* Letter, in Neglect of a *later* Advice and Command from his Majeſty. ——Nor does it look very juſt to make the Caution or Neglect of an *Agent*, in the Abſence of his Principal, a Reaſon to proceed againſt his Principal when preſent with *other* Inſtructions, without due Regard had to him or his Allegations. And Mr. *Penn* goes on thus, I muſt ſay, that, at *Newcaſtle*, when I preſt the Lord *Baltimore* to ſet in *one* Houſe with his Council, and I would ſet with mine in *another*, that we might treat by *written Memorials* under our Hands, to prevent Miſtakes, Ill-memory, or Ill-will, he refuſed, alledging he was not well. I then told him I would wave the Advantage, I thought I had, by the *ſecond* Letter, and proceed to meet him at the Place he deſired, which was at the Head of *Cheſapeak* Bay, and there try to find the 40th Degree of Northern Latitude, provided he would *firſt* pleaſe to ſet me a Gentleman's Price, ſo much *per* Mile, in caſe I ſhould have no Part of the Bay by Latitude, that ſo I might have a *Back-Port* to this Province; [*Note*, By our preſent Agreement we have no *Back-Port* now into *Cheſapeak* Bay; many Miles, *above* that Bay, being, by the Agreement, yielded to Lord *Baltimore*, in Conſideration of the three lower Counties.] *This I writ*, according to his Deſire, and ſent it after him. *To ſell* he refuſed, but, ſtarted *An Exchange* of that Part of the Bay, for the *Lower Counties* on the Bay of *Delaware*: This, I preſume, he knew I could not do, For his Royal Highneſs had the One Half, and I did not prize the thing I deſired at *Such* a rate: Soon after this Meeting I underſtood he had publiſht a Proclamation, ſome time before, to invite People to plant thoſe Parts in my Poſſeſſion under the Duke; and that alſo, before any Demand had been made, or our Friendly Treaty ended, *&c.* There I left him, expecting his News when he came to the Head of the Bay in *September*, as I thought he promiſed me; but inſtead of that, *An Obſervation* is taken, a *Line* run, and *Trees markt*, *without my Notice*, and a *Demand made* thereupon, and all grounded on the King's Letter of 2 *April* 81, in which I find no *ſuch* Direction. And as to the *Demand* itſelf, of all the Land on *Delaware River* to the South of the 40th Degree, He has no Warrant to run his Line to the *River*, neither by the King's Letters, nor his own Patent, if be peruſes it well, where he will find the *Bay*, but no *River* of *Delaware*. The Land demanded, is *not a Part* of the Province *of Maryland*, as expreſt in the Demand, for, *it is* of the Juriſdiction of *Delaware alias Newcaſtle*; which is, by ſeveral Acts of the Aſſembly of *Maryland*, diſtinguiſht and diſowned from being any Part of *that* Province. [Thoſe old Acts have been all in a Lump repealed in *Maryland*, on 15 *September* 1704. as by *Maryland* Statute Book, Fol. 44; but they have made new Acts exactly to the ſame Purpoſe, there, ſince, as we ſhall ſhew in their Order of Time.] The Lord *Baltimore* has no Land given him by Patent, but what was *unplanted* of any but *Savage Natives*; and this *Weſt* Side of the *River Delaware*, before, and at, the paſſing of his Patent, was actually *bought*, and *poſſeſt*, by a *Civil and Chriſtian State* in Amity with the Crown of *England*; and by the *Treaty of Peace* in 53, between the *Engliſh* and *Dutch*, was Part of one Article of the Treaty that the *Dutch* ſhould enjoy thoſe Territories in *America*, of which *this* was a Member; and we know *Foreign* Acquiſitions, of that Time and Kind, continued firm, *after* his Majeſty's Reſtoration; for *Jamaica* ſtill remains to us, and *Dunkirk* itſelf was not rendered, but ſold. But, if Lord *Baltimore* had a *juſt* Pretence to this River, and *former Poſſeſſion* too, which he *never had*, yet, being by the *Dutch* taken, and by the King taken from the *Dutch*, it becomes the Conqueror's; a Ship taken by the Enemy, and poſſeſt but 24 Hours, if retaken by the Crown, is Prize, and this Place was more than 24 Years in the Hands of the *Dutch*, not demanded of them; This made the Duke (upon the Opinion of Councill) take out *freſh* Patents, ſince the *laſt* Conqueſt, for his Territories in *America*; nor is Lord *Baltimore* in the Condition of an *ordinary* Subject, (in whoſe Favour ſomething might be alledged) for he has Regalia, Principality, as his Style ſhews, and I conceive he is bound to *keep* his own Dominions, or elſe *loſe* them, and if loſt to a Foreigner, and taken by the Sovereign, the Sovereign has the Right another Conqueror could plead. This is the preſent *Jus Gentium*, and Law of Nations, which, in Foreign Acqueſts, prevaileth; and the King, accordingly, has granted it under his Great Seal to the Duke, and if there was no Truth in this, it was actually another's *before*; and *Connecticut* Colony might put in for *New York*, as reaſonably, as Lord *Baltimore* can for *Delaware*; their Patent having that Part of the *Dutch* Territory within its Bounds, on the ſame Miſtake; which is yet out of Diſpute, from Lord *Baltimore*'s own Patent, that ſays *New England begins* where he *leaves*, which, being at 40. Latitude, it follows, that *New York*, and Part of Eaſt and Weſt *Jerſey* and *Penſilvania* will fall to *New England*; *Libera nos, Domine!* He concludes, that the King, by Articles of Peace between him and *Holland*, is the allowed Owner of all that Territory once called *New Netherland*, of which this is *a Part*; he has granted *it* by two Patents; and *this in Controverſy* by one, under the Great Seal, to the Duke of *York*; and the Duke, out of his Regard to the Services and Loſſes of my deceaſed Father, has intereſted me in Part of the ſame; ſo that he is *Lord*, and I am *Tenant*; of *him* I hold, and to *him* I pay my Rent (which his Governor of *New York* has *now ſent for*) and for him I improve, *as well* as myſelf; and, therefore, I muſt take leave to refer Lord *Baltimore* to the *Duke*, who is, doubtleſs, of too much *Honour* to *keep* any Man's Right, and of too great *Reſolution* to *deliver* up his own; whoſe Example I am reſolved to follow. *W. Penn. Philadelphia*, 31. *October* 1683. ——— This Paper is ſpoke to by *Patrick Baird*, and is *Penſilvania* Exhibit B B.

Feb. 13. At a Court held by *Commiſſion* from *William Penn*, Proprietor and Governor of the Province of *Penſilvania* and *Territories thereunto belonging*, at *Lewis* for the County of *Suſſex*, the *Indian Aſſawawmack*, *Harmattamale*, acknowledged, in open Court, the Sale of 1000 Acres of Land to Mr. *Alexander Moliſtone*; which Land is on the *South-ſide of the Indian River*. ——— *Suſſex* Records, N° 17. Fol. 26.

1684, *Mar.* 26. From *Suſſex* Records the Inrollment of a *Patent* granted by *William Penn* Eſq; as Proprietary and Governor of the Province of *Penſilvania* and *Territories thereunto belonging* (which Titles he *conſtantly* takes in his Acts, tho', being long, it is not always recited in *this* Abſtract) whereby he grants in Fee, to *William Emmitt*, 400 Acres of Land in the County of *Suſſex*, on the *Weſt* ſide of *Delaware* Bay, and on the *South* ſide of *Herring Creek*, proceeding out of the *Middle Creek* from *Rehoboth Bay*, To be held of the ſaid *William Penn* and his Heirs, Proprietary as aforeſaid, as of his Manor of *Wormingburſt* in the ſaid County; yielding and paying 4 Buſhels of Wheat yearly. In Witneſs whereof I have cauſed theſe my Letters to be made patent, witneſs myſelf at *Philadelphia* in the 4th Year of my Goverment. ——— *Suſſex* Records, N° 17. Fol. 27.

Same Day. Another like *Patent* from him to *Richard Stevens* in Fee, for 550 Acres in the ſaid County of *Suſſex*, on the *Weſt* ſide of *Delaware* Bay and on the *North ſide* of the River called the *South* River, formerly called the *Indian River*, rendring 5 Buſhel and ½ of Wheat yearly. ——— *Suſſex* Records, N° 17. Fol. 28.

Apr. 18. A *Return of a Survey*, made by *J. Barkſtead*, by Order of *William Clarke*, by vertue of a Warrant from *Suſſex* Court, directed to the ſaid *William Clarke* Chief Surveyor, for *Andrew Depree* and *John Barker*, of a Tract of Land called *Fairfields*, on the *South* ſide of the *Indian River*, in the County of *Suſſex* and Territories of the Province, adjoining to the Land of *Thomas Hall*, beginning, *&c. &c.* containing and laid out for 645 Acres. —— Surveyor General's Office, N° 8. Fol. 2.

Same Day. Another like *Return of a Survey*, made by D°, by Order of D°, by vertue of a Warrant from ſaid Court, for *John Okey*, of Land called *Mulatto Hall*, on the *South* ſide of *Indian River* in the County of *Suſſex* and Territories of the Province of *Penſilvania*, beginning, *&c. &c.* containing and laid out for 800 Acres. —— Surveyor General's Office, N° 8. Fol. 3.

Apr. 19. Another like *Return of a Survey*, made by D°, by Order of D°, by vertue of a Warrant from ſaid Court, for *John Croper*, of Land called the *Lady's Delight*, on the *South ſide* of the *Indian River*, in the County of *Suſſex* and in the Territories of the Province of *Penſilvania*, adjoining to the Lands of *John Oakey* and *John Barker*, beginning, *&c.* containing and laid out for 1000 Acres. ——— Surveyor General's Office, N° 8. Fol. 2.

1684, *May* 12. Another like *Return of a Survey*, made by D°, by Order of D°, by vertue of a Warrant from said Court, for *John Vines*, of a Tract of Land called *Barkin*, on the *South*-side of the *Indian River* in the County of *Suſſex* in the Territories of the Province of *Penſilvania*, on the South-East side of the firſt Fork of the said River called *South-Weſt Branch*, beginning, *&c.* containing and laid out for 500 Acres.——Surveyor General's Office, N° 8. Fol. 4.

Same Day. Another like *Return of a Survey*, made by D°, by Order of D°, by order of a Warrant of said Court, for *John Kipſhaven* of a Tract of Land called *Nonſuch*, on the *South* side of the *Indian River*, in the County of *Suſſex* and in the Territories of the Province of *Penſilvania*, adjoining to the Land of *John Okey*, beginning, *&c.* containing and laid out for 500 Acres.——Surveyor General's Office, N° 8. Fol. 3.

May 13. Another like *Return of a Survey*, made by D°, by Order of D°, by vertue of a Warrant from said Court, for *Alexander Maulſtone*, of a Tract called *Cattles Delight*, on the *South* side of the *Indian River*, in the County of *Suſſex* in the Territories of the Province of *Penſilvania*, adjoining to the Land of *John Kipſhaven*, beginning, *&c.* containing and laid out for 1000 Acres.——Surveyor General's Office, N° 8. Fol. 4.

Note well, These 8 *very early* Surveys, for the Duke of *York*, Mr. *Penn* himſelf, *Andrew Depree* and *John Barker*, for *John Okey*, for *John Croper*, for *John Vines*, for *John Kipſhaven*, and for *Alexander Maulſtone*, all on the *South* side of *Indian River*, and even down to *Aſſawarmett*, are very material to fix *our* Cape *Hinlopen*.

June 1. Beſides the foregoing Return made by *Barkſtead* the *Deputy* Surveyor, there is, at the Foot of the Return for the Duke of *York*'s Manor, *the following additional Return*, from *William Clarke* the *Chief* Surveyor, *viz.* I hereby certify into the Proprietary's Secretary's Office, that I have cauſed to be ſurveyed and laid out, unto *James* Duke of *York*, the Land above mentioned, and is accordingly entred and recorded in my Office. Given under my Hand at *Lewis*, 1 *June* 1684. *William Clarke* Chief Surveyor of the Counties of *Suſſex* and *Kent*.——Surveyor General's Office, N° 8. Fol. 1.

Same Day. The like *additional Return* from the Surveyor General for Mr. *Penn*'s own Tract.——Surveyor General's Office, N° 8. Fol. 1.

July 10. The like *additional Return* for *Andrew Depree* and *John Barker*'s Tract.——Surveyor General's Office, N° 8. Fol. 2.

Same Day. The like for *John Okey*'s.——Surveyor General's Office, N° 8. Fol. 3.

Same Day. The like for *John Croper*.——Surveyor General's Office, N° 8. Fol. 2.

Same Day. The like for *John Vines*.——Surveyor General's Office, N° 8. Fol 4.

Same Day. The like for *Alexander Maulſtone*.——Surveyor General's Office, N° 8. Fol. 4.

Nov. 2. From *Suſſex* County, the Enrollment of *a Patent* granted by *Thomas Loyd*, *James Claypole*, and *Robert Turner*, *Commiſſioners appointed under the Great Seal* by *William Penn* Proprietary and Governor, *&c.* to grant and ſign Warrants and Patents for Land; granting in Fee unto *John Croper* his said particular Parcel of Land, containing 1000 Acres called *Lady's Delight*, ſo ſurveyed and returned as aforeſaid, rendring Rent to the said Proprietary and his Heirs one Buſhel of Wheat for each hundred Acres.——*Suſſex* Records, N° 17. Fol. 29.

Feb. 1. The like *additional Return* from the Chief Surveyor for *John Kipſhaven*'s above mentioned 500 Acres.——Surveyor General's Office, N° 8. Fol. 3.

Along with the 8 Surveys *below Indian River*, mentioned in this Chapter, are returned *Maps or Plans* how thoſe ſeveral Perſons Lands lay: But they are, more ſenſibly, denoted and marked in the *General* Map of *Penſilvania* herein after mentioned, which is (as well as theſe particular Maps) proved in the Cauſe, and ſhew the *material* Scituation of theſe Tracts, ſo early granted out by Mr. *Penn*.——But theſe *particular* Maps or Plans are in Records from the Surveyor General's Office, N° 8.

1685, *Octo.* 2. From the Records in the Maſter of the Rolls Office in *Penſilvania*, the Copy of the following *Indian Deed*; whereby *Lare*, *Packenah*, *Jareckham*, *Sickais*, *Pettqueſſit*, *Towis*, *Eſſepenaick*, *Petkhoy*, *Kekelapan*, *Ecomus*, *Machaloba*, *Methconga*, *Wiſſa*, *Powey*, *Indian Kings*, *Sachemakers*, right Owners of *all the Lands from* Quing Quingus Creek, called *Duck Creek*, *unto* Upland, called *Cheſter Creek*, all along by the Weſt-ſide of *Delaware* River, and ſo, between the said Creeks, backward, as far as a Man can ride in two Days with a Horſe, for and in Conſideration of the there following Goods, to them in hand paid and ſecured to be paid by *William Penn* Proprietary and Governor of the Province of *Penſilvania* and Territories thereof, do bargain and ſell to the said *William Penn* his Heirs and Aſſigns for ever, the aforeſaid Tract of Land with all the Woods, Runs, Creeks and Appurtenances to the ſame belonging, To be held, uſed, poſſeſt and enjoyed by the said *William Penn* his Heirs and Aſſigns for ever, without any Moleſtation by them or any other *Indians*. Witneſs their Hands and Seals. With 13 Labels and Seals and Mark thereto, and witneſſed by 9 Chriſtian Witneſſes and 5 *Indian* Witneſſes.——This Copy from the Records is proved by Mr. *Brokden*, Deputy Maſter of the Rolls in *Penſilvania*, and is in *Penſilvania* Records, N° 7. Fol. 3.

And now we ſhall go back again to ſee what was tranſacted *in England* during theſe three Years, which would have been very obſcure if intermixt with the *American* Proceedings.

Chap. VII. An Account of what paſt (*in England*) in the Years 1683, 1684 and 1685. being the *firſt* Conteſt or Suit between Lord *Baltimore* and Mr. *Penn*, viz.

Note, IN *April* 1683. the Duke of *York* was obtaining a *further* Grant, from the King to himſelf, of the three lower Counties, in a more *ample* manner than that which he had before; and it was very near paſſing, if it did not actually paſs, the Great Seal; but we can't find an Enrollment of it, to ſhew thereby that it did actually paſs the Great Seal.

And indeed the Defendant has proved a Copy of this intended Patent, from the Bill remaining at the Signet Office, and an Entry made relating to it at the Privy Seal Office; and has alſo examined Mr. *Sharpe*'s Clerk, *Hamerſley*, to prove that he cannot find that Patent enrolled, at the Chapple of the Rolls, as it *ought* to have been, had it paſt the Great Seal.

As the Defendant has proved it, we deſign to move for Leave to examine a Witneſs *viva voce* to prove Copies, on our part, at the Hearing, becauſe, altho' it might not paſs, yet, it contains ſuch a *Deſcription* of the *South Bounds* of the lower Countys as is extremely material for us.

1683, *Apr.* 13. *A Bill* ſigned by Sir *R. Sawyer* and now remaining at the Signet Office, containing the King's Grant to the Duke of *York*, in Fee; which recites that the Duke of *York* had *ſurrendred* to the King the Letters Patent dated 22d *March* laſt, which Surrender his Majeſty had accepted and *thereby* did accept. *Therefore* the King, of his eſpecial Grace, *&c.* grants unto the Duke of *York*, in Fee

All that the *Town* of *New Caſtle*, otherwiſe called *Delaware*, and *Fort* therein, or thereunto belonging, ſcituate, lying and being between *Maryland* and *New Jerſey* in *America*.

And all that *River* called *Delaware*, and Soil thereof, and all *Iſlands* in the ſaid River.

And all that Tract of Land, upon the *Weſt* ſide and River of *Delaware* which lieth from *Skoolkil Creek*, upon the ſaid River, unto *Bombeys-hook*, and, backwards, into the Woods, ſo far as the *Minqua*'s Country.

And, from *Bombeys-hook*, on the ſaid River and Bay, *unto Cape* Henlopen, *now called Cape* James, *being the South Point of* A Sea Warmett *Inlett*; and backwards, into the Woods, three *Indian* Days Journies: Being formerly the Claim or Poſſeſſion of the *Dutch*, or purchaſed by them of the *Natives*, or which was by them firſt ſurrendred unto our Lieutenant Governor Colonel *Nicholls*, and which hath ſince, been ſurrendred unto Sir *Edmund Andros*, Lieutenant Governor to our ſaid deareſt Brother *James* Duke of *York*, and hath for ſeveral Years been in his Poſſeſſion.

With the general Words following, and Powers of Government, *&c.* This is Exhibit *Signet Office*.

Apr. 16. An Endorſement upon the Bill thus, *viz. Expeditur apud Weſtmonaſter.* 16 *die Aprilis anno regni Regis Caroli Secundi triceſimo quinto. Per Morice.*

Apr. 16. An *Entry* or *Locket* in the Books at the Signet Office, and at the Privy Seal Office of the ſaid Bill. Theſe are alſo Exhibits markt Signet Office, and Privy Seal Office.

Apr. 16. Another *Entry* in the Books at the *Hanaper* Office, *viz.* A Grant to *James* Duke of *York* of the Town of *Newcaſtle* alias *Delaware* ſcituate between *Maryland* and *New Jerſey* in *America*, to him and his Heirs. At the Foot of which Entry the Clerk of the *Hanaper* certifies that that Grant *did* paſs the Great Seal. (For they are not entred there unleſs they paſs)—*Han.* Off.

Note, *Three* things ariſe upon this intended Patent, even if it did not paſs. 1. If *this* Patent did not paſs, neither did the Duke of *York*'s Surrender of his *former* Patent paſs. 2. Pleaſe to remark well where the *South Bounds* of the three Lower Counties were *then* expreſly deſcribed to be. And 3. Tho' the Suit and Conteſt, then beginning, laſted three Years, and my Lord *Baltimore* inſiſted that the *whole* Counties were within the Extent and Limits of his Grant of *Maryland*; yet, when that was *flatly* adjudged againſt him, and when the Propoſal was made, for ending the Difference, and he had *time* allowed him to conſider of, and make any Objections to, the Terms, he never pretended *then* that thoſe South Bounds went at all *too low*, or ever objected to them *then*; which is the more material as the *South Bounds* of the lower Counties, taken by the *preſent* Agreement, are moſt preciſely and exactly, what was *then* deſigned for the South Bounds thereof, if that Patent had paſſed in 1683.

Apr. 17. *Tueſday*, *April* 17th 1683. Preſent *Lord Keeper*, Lord Preſident, Lord Privy Seal, Earl of *Craven*, Lord Viſcount *Fauconberg*, Earl of *Rocheſter*, Biſhop of *London*, Mr. Secretary *Jenkins*.——My Lord Privy Seal produces a *Letter*, *to himſelf*, from the Lord *Baltimore*, dated the 8th of *February* 1682, with two other Papers incloſed, *the one* being an Account of the *Conference* held in *Maryland*, between the Lord *Baltimore* and *William Penn*, and *the other* containing a Narrative of the whole Proceedings betwixt them; whereby it appears, that *great Conteſts* have ariſen between them, concerning the *Bounds* of their Provinces; it being alſo *alledged* therein, that Mr. *Penn* has written a Letter, dated the 16th of *September* 1681, which was directed to *James Friſby* and others, at their Plantations in *Penſilvania*, which the Lord *Baltimore* does *aſſert* to be within the Bounds of his Propriety, wherein Mr. *Penn* does, nevertheleſs, adviſe them, that, as he was confident and ready to believe, they were within *his* Bounds, they ſhould not pay any more Taxes or Seſſments, by any Order or Law of *Maryland*; Whereupon the Inhabitants of *Baltimore* and *Cecil* County, having refuſed to pay their Levys, the Lord *Baltimore* and his Council had immediately iſſued out Orders to the Military Officers of thoſe Counties, to aſſiſt their reſpective Sheriffs in the due Execution of their Office, which had been, with great Difficulty, effected; Whereupon, it is *ordered*, *that my Lord Keeper have a View of the ſeveral Boundaries* of the Patents granted to the Lord *Baltimore* and Mr. *Penn*, *as alſo to his Royal Highneſs*, *of* Newcaſtle, which his Lordſhip is deſired to conſider of, and to report his Opinion to the next Committee; *when the Agents* of the Lord *Baltimore* and Mr. *Penn are to attend*; and, in the mean time, that *Application be made to his Royal Highneſs*, *that he would pleaſe not to paſs any Conveyance to Mr.* Penn *of thoſe Parts*, *until the Bounds between the Lord* Baltimore *and him be ſettled.*—Memorandum.—Sir *John Werden* was *accordingly* attended, from the Committee, and promiſed to repreſent their Deſires to his Royal Highneſs. It is alſo agreed, by the *Committee*, that Letters be written to the Lord *Baltimore* and Mr. *Penn*, adviſing them to come to a *fair and ſpeedy Compoſure* of the Matters in Difference betwixt them.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra* N° 22. Fol. 1.

Note, This ſhews the *Reaſon* why the then paſſing Grant, to the Duke, was ſtopt. It alſo ſhews why the Duke did not make a formal Conveyance to Mr. *Penn*. For Lord *Baltimore*'s Complaint and Claim of Right, which came over hither firſt of all by his Letters, and was, afterwards, turned into a Petition, wherein he claimed the whole three lower Counties, put a ſtop to any further Grant from the King to the Duke, and alſo from the Duke to Mr. *Penn*, until ſuch time as that the Lord *Baltimore*'s Claim ſhould be examined into.

Apr. 27. *Friday*, *April* the 27th 1683. Preſent *Lord Keeper*, Lord Preſident, Duke of *Ormond*, Earl of *Clarendon*, Lord Chamberlain, Earl of *Rocheſter*, Earl of *Sunderland*, Earl of *Cheſterfield*, Earl of *Craven*, Mr. Secretary *Jenkins*, Mr. Chancellor of the Exchequer.——Their Lordſhips being acquainted that an *Agent from the Lord* Baltimore *attended* without, *concerning the Boundaries* in Difference *between Mr.* Penn *and his Lordſhip*, it is ordered, that the ſaid Agent be told, that *if he has any* Matter of *Complaint*, he may repreſent the ſame, *by Petition*, to his Majeſty in Council.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra* N° 22. Fol. 4.

May 30. *Thurſday*, *May* the 30th 1683. Preſent *Lord Keeper*, Lord Preſident, Lord Privy Seal, Earl of *Peterborough*, Earl of *Craven*, Earl of *Clarendon*, Earl of *Rocheſter*, Lord *Dartmouth*, Mr. Secretary *Jenkins*.——A Reference, dated the 31ſt *May*, upon the Petition of *Richard Burk*, Servant to my Lord *Baltimore*, being read, praying, that a Grant, *which is paſſing* to his Royal Highneſs, of the Parts adjacent to *Delaware* Bay, may not paſs the Great Seal, until his Majeſty ſhall be ſatisfied concerning the Extent of Lands granted to the Lord *Baltimore*, *Council learned* in *behalf of his Royal Highneſs*, *together with an Agent from Mr.* Penn, *who ſolicits the paſſing of this Grant*, *as alſo the Petitioner Mr.* Burk, *and his Council learned*, *are called in:* Whereupon the *Council for my Lord* Baltimore affirming, that the Tract of Land in Queſtion lies *within* the Limits of the Charter granted to the Lord *Baltimore*, and that his Lordſhip has, always, continued his *Claim* thereunto, Mr. *Penn*'s Agent, and the Council in behalf of his Royal Highneſs, endeavoured to make out, that this Territory was *never poſſeſſed* by my Lord *Baltimore*, but *originally inhabited* by *Dutch* and *Swedes*, and that the Grant to my Lord *Baltimore* was only of Lands *not inhabited by Chriſtians*; ſo that, a Surrender having been made of the Country to his Majeſty in 1664, the Lord *Baltimore* can have no rightful Claim thereunto; and that it having been, *ever ſince*, in the Poſſeſſion of his Royal Highneſs, the Lord *Baltimore* can receive no Injury by the Grant that is deſired. Upon the whole Matter, *Mr.* Penn's *Agent undertaking to prove*, within a ſhort time, that this Country was poſſeſſed by the *Dutch* and *Swedes* in the Year 1609, or at leaſt, *before the Date of the Lord* Baltimore's Patent, their Lordſhips agreed to meet again, as ſoon as the Proofs ſhall be ready for making out the ſame.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 5.

May 31. At the Court at *Hampton-Court* the 31ſt of *May* 1683. *By the King's* Moſt Excellent Majeſty, and the Lords of his Majeſty's moſt Honourable Privy Council——Upon reading this Day at the Board the Humble Petition of *Richard Burke* Gent. Servant to the Right Honourable *Charles* Lord *Baltimore*, praying, in behalf of his Lordſhip, that a Grant (which is paſſing) from his Majeſty to his Royal Highneſs the Duke of *York*, of the Town of *Newcaſtle*, and *the adjacent Country*, on the Confines of *Maryland*, may not paſs the Great Seal, until his Majeſty ſhall be ſatisfied of the Extent of Letters Patent formerly granted to *Cecill* Lord *Baltimore*, wherein the ſaid Town and adjacent Country is alledged to be comprized. His Majeſty in Council was pleaſed to order, that the *Examination of that whole* Matter be, and it is hereby, referred to the Right Honourable the Lords Committees of this Board, for Trade and Foreign Plantations, and, upon *their Lordſhips Report* of the State thereof, with their Opinion thereupon, his Majeſty will declare his further Pleaſure. Sign'd *Phil. Loyd.*——This is proved by Mr. *Gellibrand* and is Exhibit *Botra*, N° 21. Fol. 1.

Tueſday,

83. *June* 12. *Tueſday* the 12th of *June* 1683. Preſent Lord Archbiſhop of *Canterbury*, *Lord Keeper*, Lord Preſident, Lord Privy Seal, Earl of *Rocheſter*, Earl of *Craven*, Lord Biſhop of *London*, Lord *Dartmouth*, Mr. Chancellor of the Exchequer, Mr. *Godolphin*.——*The Agents on behalf of the Lord* Baltimore *and Mr.* Penn are called in, and Council learned being heard *on both ſides*, the Queſtion is ſtated between them, *viz.* Whether, in the Year 1632, the *Dutch* were poſſeſſed of the Lands *claimed by Mr.* Penn; *which Mr.* Penn's *Agent undertakes to prove*, in a ſhort time, and their Lordſhips will then take this Matter into further Conſideration.——This is Exhibit *Botra*, N^q^ 22. Fol. 7.

Aug. 14. A Letter from Mr. *Penn* to the Right Honourable the Lords of the Committee for His Majeſty's Plantations at *Whitehall*.——*Philadelphia* the 14th of the 6mo. *Aug.* 1683.——Tho' it be a Duty I humbly own, to inform the Lords of the Committee of Plantations of what concerns his Majeſty's Intereſt in the Succeſs of this Province, I thought myſelf equally obliged to be diſcreet and cautious in doing it: To write when there was need, and not trouble Perſons, of their Honour and Buſineſs, with Things trivial, at leaſt raw and unfiniſht for their View. This, hitherto, put me by, giving any Account of the State of our Affairs; *To ſay nothing of the mighty Difficulties I have laboured under, in the Settlement of ſix and twenty Sail of People, to Content, within the Space of one Year, which makes my Caſe ſingular, and excuſable above any other of the King's Plantations.* But, becauſe my *Agent* has informed me, that the Proprietor of *Maryland*, has been early in *his* Account of our Conference, about the fixing of our Bounds, and made a Narrative of *my* Affairs, as well before, as at that Time, a little to my Diſadvantage, and the rather, becauſe my *Silence* might be interpreted Neglect, I am neceſſitated to make ſome Defence for myſelf, which, as it will not be hard to make, ſo I hope it will be received as juſt. I humbly ſay then *firſt*, that it ſeemed to me improper to trouble the Lords with my Tranſactions with this Proprietor, till we were come to ſome *Reſult*; which we were not, for we parted till Spring, and even then, were but to meet about the Methods of our Proceeding. *Next*, this Narrative was taken, by this Lord's Order, without my Conſent or Knowledge, in a Corner of a Room, by one of his own Attendants. And *laſtly* when, upon Notice given of this Uſage, I complained to him, he promiſed, upon his Word and Honour it ſhould go no further, and that it was for his own Satisfaction he did it. I told him, that mitigated the Thing a little; but, if he ſhould divulge it, before I ſaw and agreed the Copy, he muſt pardon me if I lookt upon it as a moſt unfair Practice; what that Lord has done, and what to call it, I leave to my Betters, but the Surprize and Indigeſtion of the whole, will I hope excuſe me of Neglect or Diſreſpect; for tho' I am inceremonious, I would by no means act the rude or undutiful. This ſaid, I humbly beg that I may give a brief Narrative of the Matter, as it then paſt, ſince has been, and now ſtands, without the Weakneſs and Tautology his Relation makes me guilty of.

So ſoon as I arrived, which was on the 24th of *October* laſt, I immediately diſpatcht two Perſons to the Lord *Baltimore*, Proprietary of *Maryland*, with my Reſpect, to aſk of his Health, offer kind Neighbourhood, and agree a Time of meeting, the better to eſtabliſh it. While they were gone in this Errand, I went to *New-York*, that I might pay my Duty to the Duke, in the Viſit of his Government and Colony; at my Return, which was towards the End of *November*, I found the Meſſengers I had ſent to *Maryland* newly arrived, and the Time fixed being the 19th of *December*, I prepared myſelf, in a few Days, for that Province; the 11th of that Month, I came to *Weſt River*, where I met the Proprietor, attended, ſuitable to his Character; who took that Occaſion, by his Civilities, to ſhew me the Greatneſs of his Power; the next Day, we had a Conference, about our Buſineſs of the Bounds, both at the ſame Table, with our reſpective Members of Council. The firſt Thing I did, was, to preſent the King's *Letter*, which conſiſted of *two* Parts, *one*, that the Lord *Baltimore* had but *two Degrees*, and the *other*, that, beginning at *Watkins*'s Point, he ſhould admeaſure his ſaid Degrees, at 60 Miles to a Degree. This, being read by him, firſt privately, then publickly, he told me that the King was greatly miſtaken, and that he would not leave his Patent to follow the King's Letter, nor could a Letter void his Patent, and by that he would ſtand. *This* was the Subſtance of what he ſaid from firſt to laſt, during the whole Conference. To *this* I anſwered, that the King might be miſinformed, rather than miſtaken, and that I was afraid the *Miſtake* would fall of *his* Side; for, though his Patent begins at *Watkins*'s Point, and goes to the 40th Degree of North Latitude, yet, it preſumed that to lie in thirty eight, elſe *Virginia* would be wronged, that *ſhould* extend to that Degree; however, this I aſſured him, that when I petitioned the King for five Degrees North Latitude, and that Petition was referred to the Lords of the Committee of Plantations, at that time, it was urged by ſome preſent, that the Lord *Baltimore* had but *two* Degrees, upon which the Lord Preſident turning his Head to me, at whoſe Chair I ſtood, ſaid, Mr. *Penn*, will not *three* Degrees ſerve your turn? I anſwered, I ſubmit both the *what*, and *how*, to the Honourable Board. To this, his Uncle and Chancellor returned, that, to convince me, his Father's Grant was not by Degrees, he had more of *Virginia* given him, but, being planted, and the Grant intending *only Land not planted or poſſeſt, but of Savages, Natives, he left it out, that it might not forfeit the reſt*, of which the Lord *Baltimore* takes no notice in his Narrative, that I remember; but, by that Anſwer, he can pretend nothing to *Delaware*, that was, at and before, the paſſing of that Patent, bought and planted by the *Dutch*, and ſo *could not be given*; but, if it were, it was *forfeited*, for not reducing it during twenty Years, under the *Engliſh* Sovereignty, of which he held it; but was at laſt reduced *by the King*, and therefore, *his* to give as he pleaſe h. Perceiving that my preſſing the King's *Letter*, was uneaſy, and that I had determined myſelf to diſpoſe him, with utmoſt Softneſs, to a good Compliance, I waved that of the *two Degrees*, and preſt the Admeaſurement *only*, the next Part of the Letter; for, tho' it were two Degrees and an half from *Watkins*'s Point *to* Forty, yet let it be meaſured at 60 Miles to a Degree, and I would begin *at Forty*, fall as it would, my Deſign was, that every Degree, being ſeventy Miles, I ſhould get all that was over ſixty, the Proportion intended the Lord *Baltimore* by the Grant, and the Computation of a Degree at *that time* of the day. Thus, he had enjoyed the *full* Favour intended him, and I had gained a *Door, of great Importance* to the peopling and improving of this his Majeſty's Province: But *this*, he alſo rejected; I told him, it was not the *Love*, or *Need*, of the *Land*, but the *Water*; that he *abounded* in what *I wanted*, and had Acceſs and Harbourage even *to Exceſs*; that I would not be thus importunate, but for the *Importance* of the Thing, *to ſave a Province*; and, becauſe there was no Proportion in the Concern, if I were a hundred times more urgent and tenacious, the Caſe would excuſe it; becauſe the Things inſiſted on, were more than nine-y-nine times more valuable to me, than to him: To me the Head, to him the Tail. I added, that if it were his, and he gave it me, planting it would recompence the Favour, not only by laying his Country between two thriving Provinces, but the Ships that come yearly to *Maryland* for Tobacco, would have the bringing of both *our People and Merchandize*, becauſe they can afford it cheaper, whereby *Maryland* would, for one Age or two, be the Mart of Trade; but this, alſo, had no other Entertainment, but hopes that I would not inſiſt on theſe Things at our next Meeting. After *three* Days time we parted, and I returned to this Province. When the Spring came, I ſent an Expreſs, to pray the Time and Place when and where I ſhould meet him, to effect the Buſineſs we adjourned to that Time. I followed cloſe upon the Meſſenger, that no Time might be loſt; but the Expectation he twice had, of the Lord *Culpepper*'s Viſit, diſappointed *any* Meeting in our Affair, till the Month called *May*. He, then, ſent three Gentlemen, to let me know he would meet me at the *Head of the Bay* of *Cheſopeake*. I was then in Treaty with the Kings of the Natives, for Land, but, three Days after, we met, ten Miles from *Newcaſtle*, which is *thirty* from the Bay; I invited him *to the Town*, where, having entertained him as well as the Town could afford on ſo little Notice, and finding him only deſirous of ſpeaking with me *privately*, I preſt that we might, at our diſtinct Lodgings, ſett, ſeverally, with our Councils, and treat by way of written Memorials, which would prevent the Miſtakes or Abuſes that may follow from ill Deſigns, or ill Memory; but he avoided it, ſaying he was not well, the Weather ſultry, and would *return* with what Speed he could; reſerving any *other* Treaty to another Seaſon. Thus we parted, at that time. I had been, before, told, by divers, that the Lord *Baltimore* had iſſued forth a *Proclamation*, to invite People, by lower Prices, and greater Quantities of Land, to plant in the Lower Counties, in which the Duke's Goodneſs had intereſted me as an *inſeparable Benefit* to this whole Province; I was not willing to believe it; and he, being in haſte, I omitted to aſk him; but I had not been long returned, before two Letters comes from two Judges of the two County Courts, that ſuch a Proclamation was abroad, that the People abhorr'd to hearken to it, but yet, prayed my Directions. I bid them keep their ground, and not fear, for the King would be Judge. Upon this, I diſpatcht, to the Lord *Baltimore*, three of my Council, with the Clerk of it; as they went, they got an Authentick Copy, under the Hand of one of his Sheriffs, to whom an Original had been directed; but, as the laſt Civility I could yield him, I forbid them to *ſeem* to believe any thing, but what they had from his *own Mouth:* Thus, they delivered my Letter; at firſt, he *denied* any ſuch Proclamation, turning to two Gentlemen of his Council that ſtood by, aſked them, if they remembred any ſuch thing? They alſo denied it; upon which, the Perſons I ſent, produced the atteſted Copy, which, refreſhing their Memories, they confeſſed there *was* ſuch a Proclamation, but the Lord *Baltimore* told them, that it was *his ancient Form*, and he only did it to renew his Claim, not that he would encourage any to plant *there*. They then prayed him to call it in, leſt any Trouble ſhould enſue, but he refuſed it. This was, during a *Civil Treaty, without any Demand made*, and *after the Place had been, for many Years*, in *the quiet Poſſeſſion of the Duke*. What to call this, I ſtill humbly refer to my Superiors; for his Pretenſions to *thoſe* Parts, I have thoroughly inſtructed *my Agent*, who I hope will be able to detect them of Weakneſs and Inconſiſtency. This is a true, tho' brief, Narrative of the Entertainment I have had from that Lord, in the Buſineſs between us. And becauſe I have, as in Duty bound, *ſent an Agent* Extraordinary, *to wait upon the King and his Miniſters*, in the Affairs of this Province, (ſo ſoon as I could make *any* Settlement in it) I ſhall only humbly pray leave to hint at two or three Things, relating to the *Buſineſs depending between this Lord and myſelf*, about finding *the fortieth* Degree of North Latitude. 1ſt. That I have common Fame on my ſide, grounded upon an ancient and conſtant Judgment, that the fortieth Degree of North Latitude lieth about *Pool's Iſle*; this, the Lord *Baltimore* himſelf hath not denied, the Country confeſſeth, and I ſhall, when required, prove by ſome able Maſters of Ships. 2d. If this were an *Error*, it is grounded upon ſuch Skill and Inſtruments as gave meaſure to *the Times* in which his Patent was granted; and if he hath got upon *Virginia, by that Error*, he ſhould not get upon me, by an *exacter* Knowledge; conſidering that *Carolina*, which endeth by *Degrees*, would as much advance upon *Virginia*, if the reputed Latitude of unprejudiced Times ſhould take no place; for, by advancing her Bounds twenty Miles, by a *new* Inſtrument, beyond the Place which hath generally been taken for 36½; and *Virginia* not being equally able to advance, upon *Maryland*, (becauſe of it's beginning at a Place *certain*) ſhe will be greatly narrowed between both. 3dly. I, therefore, moſt humbly pray, that the Judgment of *Ancient Times*, by which Perſons, at the Diſtance of *England* from *America*, have governed themſelves, may conclude that Lord's Bounds; or, that he may meaſure his *two Degrees* according to the Scale and Computation of *thoſe Times*, which was *ſixty* Miles to a Degree; or, if it be allowed that he had not his Grant *by Degrees*, that, at leaſt, I might not loſe the Benefit of Admeaſurement, as before mentioned, from *Watkins*'s Point (in whatſoever Degree of Latitude that ſhall be found) *to* the fortieth Degree of North Latitude; which I humbly take the more Courage to preſs, becauſe *a Province lieth at ſtake in the Succeſs of it*. I have only humbly to add, that the Province hath a Proſpect of an extraordinary Improvement, as well by divers Sorts of *Strangers*, as *Engliſh Subjects*; that, in all Acts of Juſtice, *we name* and venerate the *King's Authority*; that I have exactly followed the Biſhop of *London*'s Council, *by buying*, and *not taking away*, the Natives Land, with whom I have ſettled a very kind Correſpondence. I return my moſt humble Thanks for your *former* Favours in the paſſing of my Patent, and pray God reward you. I am moſt ready to obey all your Commands, according to the Obligations of it, and beſeech you to take this Province into your Protection under his Majeſty, and him, whom *his* Goodneſs hath made Governor of it, into your Favour; for that I am, with moſt ſincere Devotion, Noble Lords, your thankful faithful Friend and Servant to my Power (Sign'd) *William Penn*.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 20.

Feb. 12. Memorandum concerning *Penſilvania*, received and read 12th *February* 168¾.——A certain Tract of Land, in *America*, having been ſurrendred, long ſince, by the *Dutch* to the King, and, ever ſince, in the Poſſeſſion of his Royal Highneſs; His Royal Highneſs having demiſed it to *William Penn Eſq*; (lying contiguous to *Penſilvania*) at a Rent; the Lord *Baltimore* now *diſturbs* William Penn, *and his Agents* there, and oppoſes the paſſing of a Patent of it to his Royal Highneſs here. And, upon a Hearing before the Lords of the Committee of Plantations, it being alledged in the behalf of his Royal Highneſs, that this Tract of Land was inhabited by *Chriſtians*, before the Lord *Baltimore*'s Patent, which extended only to Land *uninhabited by Chriſtians*, it was ordered that they ſhould be ready with Proofs to that Point. It is *now* deſired, in the behalf of his Royal Highneſs, a Day may be appointed to be heard to it.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 21. Fol. 2.

Feb. 12. *Tueſday* 12th *February* 168¾, Preſent *Lord Keeper*, Earl of *Bridgewater*, Earl of *Clarendon*, Mr. Secretary *Jenkins*.——Upon reading *a Paper*, delivered *by the Agent of Mr. Penn*, Proprietor of *Penſilvania*, wherein it is deſired, that a Day may be appointed to hear the *Difference between the Lord* Baltimore *and the ſaid* William Penn, touching a certain Tract of Land in *America*, now in the Poſſeſſion of his Royal Highneſs. Their Lordſhips take notice of a Letter, lately received from the Lord *Baltimore*, wherein his Lordſhip deſires that the Hearing of this Matter may be deferred *till April next*, when he intends to come into *England*. Whereupon, it is agreed that this Buſineſs be poſtponed until the Month of *April* next, unleſs the Agent of the Lord *Baltimore* be ready to bring the Matter in difference to a Hearing before that time.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 8.

1684. *July* 2. *Wedneſday July* 2d. 1684. Preſent *Lord Keeper*, Lord Preſident, Lord Privy Seal, Duke of *Beaufort*, Earl of *Rocheſter*, Lord Viſcount *Fauconberg*, Lord *Dartmouth*, Sir *Leolin Jenkins*.——A Letter from Sir *Edward Herbert*, Solicitor to his Royal Highneſs, read, repreſenting the Prejudice that his Royal Highneſs may ſuffer by a further Delay of the *Buſineſs now depending* before their Lordſhips, *between Mr.* Penn *Leſſee to his Royal Highneſs, and the Lord* Baltimore, for the Lands in *Delaware*. Whereupon, their Lordſhips order that the Lord *Baltimore*'s Agent have notice to attend on *Wedneſday* the 16th Inſtant.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N°. 22. Fol. 9.

July 16. *Wedneſday July* 16th 1684. Preſent Lord Archbiſhop of *Canterbury*, *Lord Keeper*, Lord Privy Seal, Earl of *Craven*, Earl of *Nottingham*, Earl of *Rocheſter*, Lord Biſhop of *London*, Lord *Dartmouth*, Mr. Chancellor of the Exchequer.——*The Agents of my Lord* Baltimore *and Mr.* Penn attending, their Lordſhips appoint to take *the Matter in difference between them* into further Conſideration, on *Wedneſday* next, at four in the Afternoon, at which Time all Parties are to attend.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 10.

July 23. *Wedneſday July* 23d 1684. Preſent *Lord Keeper*, Lord Preſident, Lord Privy Seal, Earl of *Craven*, Earl of *Rocheſter*, Mr. Secretary *Godolphin*, Sir *Leolin Jenkins*, Mr. Chancellor of the Exchequer.——*My Lord* Baltimore attending, *upon the Difference between his Lordſhip and Mr.* William Penn, touching the Boundaries of *Maryland* and *Penſilvania*, his Lordſhip, and Mr. *Ford, Agent for Mr.* Penn, are called in, and Mr. *Ford* declaring that he could not be ready for Hearing, becauſe Sir *Edward Herbert*, Solicitor to his Royal Highneſs, whoſe Leſſee Mr. *Penn* is, was gone upon his Circuit, and that *he* could not get *other* learned Council: Their Lordſhips appoint this Matter to be heard the firſt *Tueſday* after *Michaelmas*, at which Time all Parties are to be ready with their Proofs and Evidences of their Right.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 11.

Sept. 30. *Tueſday Sept.* 30th 1684. Preſent *Lord Keeper*, Earl of *Rocheſter*, Lord Preſident of his Majeſty's Council, Lord Privy Seal, Earl of *Sunderland*, Earl of *Clarendon*, Earl of *Craven*, Earl of *Middleton*.——My Lord *Baltimore*, and the Commiſſioners of his Royal Highneſs, under whom *Mr.* Penn *claims* a Tract of Land about *Newcaſtle* in the Province of *Delaware*, together with their Council learned, are called in, and it being alledged by Sir *Edward Herbert*, his Royal Highneſs's Solicitor, that the Proofs in the Caſe

Caſe depend chiefly upon Mr. *Penn*'s coming into *England*, where *he* was ſoon expected, their Lordſhips appoint the Buſineſs to be heard on the 9th Day of *December* next, at which Time Mr. *Penn* is expected here.—— This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 12.

1684, *Dec.* 9. *Tueſday December* 9th 1684. Preſent *Lord Keeper*, Earl of *Huntingdon*, Earl of *Bridgewater*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Middleton*, Lord Viſcount *Fauconberg*. —— The Difference depending *between my Lord* Baltimore *and Mr.* Penn, being appointed to be heard this Day, was put off to another Time.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 13.

March 17. *Tueſday March* 17th 168$\frac{4}{5}$. Preſent *Lord Keeper*, Lord Preſident, Lord Privy Seal, Duke of *Beaufort*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Ailſbury*, Lord Viſcount *Fauconberg*, Lord *Godolphin*, Mr. Chancellor of the Dutchy.——A Letter from Mr. *Penn*, dated this Day, is read, praying that *he may have* an Order for quieting the Poſſeſſion of the Lands in *Delaware*, as his Majeſty had placed it, till the Difference *between Mr.* Penn *and the Lord* Baltimore be heard, but their Lordſhips do not think fit to do any thing therein. ——This is proved by Mr. *Gellibrand*, and is the Exhibit *Botra*, N° 22. Fol. 14.

1685, *Aug.* 18. Received from the Earl of *Middleton* 18th *Auguſt* 1685. Read the ſame Day. To the King's Majeſty. The Petition of *William Penn*, with all Humility ſheweth, That his Petitioner has *long* waited, to *his* great Detriment, the Deciſion of the Matter in Difference *between the Lord* Baltimore *and himſelf, under the King's Name and gracious Protection*, about the Bounds of the Lands which he received from the King when Duke; and, tho' he has been referred to the Iſſue of the *Quo Warranto* upon the Lord *Baltimore*'s Patent, yet, ſince this Stay is of the greateſt Prejudice to his Majeſty's Province, and a Ruin to his Petitioner and his Family, as he is ready to evince, and that it is about a Title of *Land*, and not of *Power*, and ſo, not the Queſtion the *Quo Warranto* goes upon; for *that* Diſpute would remain, tho' the King's Suit about Power were iſſued; His Petitioner moſt humbly prays his Caſe may be recommended to the Lords of Plantations, and a *ſhort Day* ſet to hear and determine this Buſineſs; and his Petitioner ſhall ever heartily pray, Signed *William Penn*.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 21. Fol. 3.

Aug. 18. *Tueſday* 18th *Auguſt* 1685. Preſent, Lord Treaſurer, Lord Preſident, Earl of *Bridgewater*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Middleton*, Lord *Godolphin*, Mr. Chancellor of the Dutchy.—— Upon the Petition of *William Penn* Eſq; referred to the Committee, ſetting forth that the Difference *between my Lord* Baltimore *and the Petitioner*, is about a Title of *Land*, and not of *Power*, and ſo, not the Queſtion of the *Quo Warranto* iſſued againſt my Lord *Baltimore*, and therefore, praying that a *ſhort Day* may be ſet for hearing and determining the ſame, their Lordſhips appoint to hear *the Difference between the Lord* Baltimore *and the Petitioner*, concerning the *Boundaries* and *Title of Soil* in *America*, on *Wedneſday* the 26th of this Month, at 4 in the Afternoon, and order Notice thereof to be given to *both* Parties accordingly.——This is proved by Mr. *Gellibrand*, and is the Exhibit *Botra*, N° 22. Fol. 15.

Aug. 26. *Thurſday* the 26th of *Auguſt* 1685. Preſent, Lord Treaſurer, Lord Preſident, Earl of *Bridgewater*, Earl of *Craven*, Earl of *Nottingham*, Lord Viſcount *Fauconberg*, Lord Biſhop of *London*, Earl of *Middleton*, Mr. Chancellor of the Dutchy. —— The Lord *Baltimore* and Mr. *Penn* attending, upon the Differences *between them*, touching Boundaries, and Title of Soil, in *America*, are called in, and their Lordſhips appoint to hear this Buſineſs on *Wedneſday* the 2d of the next Month, when both Parties *agreed* to attend without Council.——This is proved by Mr. *Gellibrand*, and is the Exhibit *Botra*, N° 22. Fol. 16.

Sept. 2. *Tueſday* the 2d of *September* 1685. Preſent, Lord Preſident, Lord Privy Seal, Earl of *Bridgewater*, Earl of *Craven*, Earl of *Middleton*, Lord Viſcount *Fauconberg*.——The Lord *Baltemore* and *William Penn* Eſq; attending, this Day, according to Order, upon the Difference *between them*, and the Boundaries of Land, and Title of Soil, in *America*: And Mr. *Penn* having produced *divers Proofs*, to make out that the Country of *Delaware was inhabited by the Swedes and Dutch* before the Date of my Lord *Baltimore*'s Patent; It is thought fit that *Copies be given* to the Lord *Baltimore*, of the ſaid Evidences and Proofs, that his Lordſhip may be prepared to make his *further Defence* before the 30th of this Inſtant *September*; on which Day their Lordſhips reſolve to take this Matter *again* into Conſideration.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra*, N° 22. Fol. 17.

Octob. 8. *Thurſday* the 8th of *October* 1685. Preſent, Lord *Jefferys* Lord High *Chancellor* of *England*, Lord Treaſurer, Lord Preſident, Lord Privy Seal, Earl of *Mulgrave*, Lord Chamberlain, Earl of *Sunderland*, Earl of *Craven*, Lord Biſhop of *London*, Maſter of the Ordnance.——My Lord *Baltemore* and Mr. *Penn* attending, are called in, and *both Parties being heard*, my Lord *Baltimore* gives their Lordſhips an Account that, in the Year 1642, one *Ployden* ſailed up *Delaware* River, and *did not ſee any Houſe* there at that time, as is affirmed by a Depoſition produced by Mr. *Penn*; and the *Copy of a Report* of the Commiſſioners of Foreign Plantations, on the 4th of *April* 1638, touching the Differences between the Lord *Baltemore* and Mr. *Clayborn*, about the Iſle of *Kent, is offered by my Lord*, ſhewing *their Opinion* touching the Lord *Baltimore*'s Right to the Iſle of *Kent*: After which, the Depoſition of Mr. *Garret Van Sweeringen* concerning *the ſeating* Delaware *Bay and River to the Southward of the 40th Degree Northern Latitude, by the* Dutch *and* Swedes, read. Whereupon their Lordſhips think fit that *my Lord* Baltimore *procure an atteſted Copy of the forementioned Reports*, againſt *Thurſday* next, when their Lordſhips will take this Matter into further Conſideration.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra* N° 22. Fol. 18.

Octob. 17. *Saturday October* 17th 1685. Preſent, Lord *Chancellor*, Lord Treaſurer, Lord Privy Seal, Duke of *Beaufort*, Lord Chamberlain, Earl of *Sunderland*, Earl of *Craven*, Earl of *Middleton*, Lord *Dartmouth*, Mr. Chancellor of the Exchequer.——My Lord *Baltimore* and Mr. *Penn* are called in, and my Lord *Baltimore having undertaken to procure an authentick Copy of a Report*, made by the Commiſſioners for Foreign Plantations on the 4th *April* 1638, touching the Differences between my Lord *Baltimore*'s Predeceſſors and *William Clayborne*, about the Iſle of *Kent*, *my Lord* Baltimore *declares that he cannot find the Original, whereby an atteſted Copy may be procured*; Their Lordſhips agree to report their Opinions, *that the Tract* of Land, now in Diſpute, *does not belong to my Lord* Baltimore; but, in as much as it yet remains doubtful, what are the *true Boundaries* of the Land called *Delaware*, which their Lordſhips now adjudge to belong to his Majeſty, their Lordſhips will meet *again* for the Settlement of *thoſe* Boundaries between his Majeſty, and the Lord *Baltimore*; at which time his Lordſhip *and Mr. Penn* are to give their Attendance, and to come prepared for a *final Deciſion therein*.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra* N° 22. Fol. 20.

Octob. 31. *Saturday October* 31ſt 1685. Preſent, *Lord Chancellor*, Lord Privy Seal, Lord Chamberlain, Earl of *Sunderland*, Earl of *Craven*, Earl of *Berkeley*, Earl of *Plimouth*, Earl of *Middleton*, Lord Viſcount *Preſton*, Mr. Chancellor of the Exchequer.——My Lord *Baltimore* and Mr. *Penn* attending, are called in, and their Lordſhips taking into Conſideration *what might be the proper Boundaries* of the Country of *Delaware*, now in Queſtion, it is *propoſed* that the *whole Peninſula*, or Tract of Land, called *Delaware*, from Eaſt to Weſt, as far as Cape *Hinlopen Southward*, may be divided into two equal Parts, between his Majeſty and my Lord *Baltimore*. Whereupon, his Lordſhip, deſiring *further* time, to *conſider* of this *Propoſal*, the Committee allow him a Week longer, *to offer his Objections*.——This is proved by Mr. *Gellibrand*, and is the Exhibit *Botra* N° 22. Fol. 21.

Nov. 7. *Saturday November* 7th 1685. Preſent Lord Privy Seal, Earl of *Bridgewater*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Middleton*, Lord *Viſcount Fauconberg*, Mr. Chancellor of the Exchequer, *Lord Chief Juſtice Herbert*. —— My Lord *Baltimore* and Mr. *Penn* attending, concerning the *Boundaries* of the Country of *Delaware*, are called in; and being heard, their Lordſhips reſolve to report their Opinion, to his Majeſty, That, for avoiding further Differences, the Tract of Land, lying *between* the *River* and *Bay* of *Delaware*, *and the Eaſtern Sea, on the Weſt ſide*, and *Cheaſepeak Bay* on the *other*, be divided into two equal Parts, by a Line, from the *Latitude* of Cape *Hinlopen*, *to* the 40th Degree of Northern Latitude; and, that one half thereof, lying towards the *Bay* of *Delaware* and the Eaſtern *Sea*, be adjuſted to belong to his Majeſty; and that the other half remain to the Lord *Baltimore*, as compriſed within his Charter.——This is proved by Mr. *Gellibrand*, and is Exhibit *Botra* N° 22. Fol. 22.

Note well, This Determination was made *by Agreement of Parties*, as it were, it having been before *propoſed* to the Parties, and *Time* given them to *conſider* thereof,

And this Report abundantly fixes the *North Bounds* of *Maryland* to be at the *Head* of *Cheſapeak* Bay; for the Peninſula, which was ſo to be divided, although it had *three* Boundaries on the one ſide, namely, the River and Bay of *Delaware*, and the Eaſtern Sea, yet it had no Boundary on the other ſide but *Cheſopeak* Bay *only*.

Again, this Report fixes, very *materially* for us, that the *South* Bounds of the lower Counties were to be from Cape *Hinlopen*. And the firſt *Dutch* Record, of the Year 1630, ſhews *that* was 8 *large* Miles, (*viz.* 8 Leagues) South of *Delaware* Bay. Beſides which, Cape *Hinlopen* mentioned in this Report, could not be (as my Lord *Baltimore now* pretends) at the *Mouth* or *Entrance* of *Delaware* Bay; for, if ſo, there was no occaſion to deſcribe the *Eaſtern Sea* as Part of the Boundary of the Peninſula, which in fact it was not, in ſuch Caſe, but, on the contrary, the River and Bay of *Delaware* would have been the *only* Eaſtern Boundaries, had Cape *Cornelius* been the true and ancient Cape *Hinlopen*.

Nov. 13. At the Court at *Whitehall* the 13th Day of *November* 1685. Preſent, The King's Moſt Excellent Majeſty, His Royal Highneſs Prince *George* of *Denmark*, Lord Archbiſhop of *Canterbury*, Lord *Chancellor*, Lord Treaſurer, Lord Privy Seal, Duke of *Ormond*, Duke of *Beaufort*, Duke of *Queenſberry*, Lord Chamberlain, Earl of *Huntingdon*, Earl of *Bridgewater*, Earl of *Peterborough*, Earl of *Sunderland*, Earl of *Craven*, Earl of *Berkeley*, Earl of *Nottingham*, Earl of *Plymouth*, Earl of *Morray*, Earl of *Middleton*, Lord Viſcount *Fauconberge*, Lord Viſcount *Preſton*, Lord Viſcount *Melfort*, Lord Biſhop of *London*, Lord *Dartmouth*, Lord *Godolphin*, Mr. Chancellor of the Exchequer. *The following Report*, from the Right Honourable the Lords of the Committee for Trade and Foreign Plantations, being this Day read at the Board; The Lords of the Committee for Trade and Plantations having, purſuant to his late Majeſty's Order in Council of the 31ſt of *May* 1683, Examined the Matters *in difference between the Lord* Baltimore *and* William Penn *Eſq*; *in behalf of his preſent Majeſty*, concerning a Tract of Land, in *America*, called *De la Ware*, Their Lordſhips find that the Land, intended to be granted to the Lord *Baltimore*'s Patent, was only Land *uncultivated and inhabited by Savages*.——And that *this* Tract of Land, now in Diſpute, *was inhabited and planted by Chriſtians*, at *and before the Date of the Lord* Baltimore's *Patent, as it hath been, ever ſince, to this Time, and continued as a diſtinct Colony from that of* Maryland; ſo that their Lordſhips humbly offer their Opinion, that, *for avoiding further Differences*, The Tract of Land, lying between the *River* and the Eaſtern *Sea*, on the one Side, and *Cheaſapeake Bay*, on the other, be divided, into equal Parts, by *a Line*, from the Latitude of Cape *Hinlopen*, *to* the 40th Degree of Northern Latitude; and that one Half thereof, lying towards the *Bay* of *Delaware* and the Eaſtern *Sea* be adjudged to belong to his Majeſty, and that the other Half remain to the Lord *Baltimore*, as compriſed within his Charter. Council Chamber 7th of *November* 1685. *His Majeſty*, well approving of the ſaid Report, It was, thereupon, Ordered, by his Majeſty in Council, That the ſaid Lands be forthwith Divided *accordingly*.——Whereof the ſaid Lord *Baltimore* and *William Penn* Eſq; together with *their reſpective Officers*, and all others whom it may concern, are to take Notice, and give due and ready Obedience thereunto.——This is proved by *Dickinſon*, and is Exhibit, *Co-off.* N° 4.

Note, And thus ended this *firſt* Conteſt; wherein *many* Tnings clearly appear.——1. That Lord *Baltimore* and his Council were fully heard, *Great Numbers* of Times, and had ſuch Indulgence that they ordered him *Copies* of Mr. *Penn*'s *Proofs*.——2. That, throughout the whole Proceſs, it is, from time to time, taken notice of as a Diſpute between Lord *Baltimore* and Mr. *Penn*, and is expreſsly called ſo in the Minutes and Acts of Council, although at the ſame time Mr. *Penn* did hold under the Duke's Deeds and Covenants, and under Rent to the Duke, and, therefore, additionally, took into his aid the Duke's Name and Right.——3. That it was, in this Conteſt, that the then Lord *Baltimore* firſt trumpt up the *pretended* Order of Council about *Clayborne* of 4 *April* 1638, and then gave it up again.——4. That there was a *flat Judgment* againſt Lord *Baltimore*, that *Delaware*, (the Tract of Land then in Diſpute) did *not* belong to him, and the only Doubt was, What were the *true Boundaries* of *Delaware?*——5. That a *Propoſition* was made then, for Peace ſake, and to prevent *further Differences*, how it ſhould be bounded, and Time given to Lord *Baltimore* to offer any *Objections* to that *Propoſal*.——6. That the Order, then made, for a Diviſion, was to extend Southwards, down to Cape *Hinlopen*, and Northwards, not a Hair further than to the *Head* of *Cheſapeak Bay*, (whereas, *now*, we have granted him a great many Miles higher than that) For, The Land, which was to be divided, was ſuch as lay between *Delaware River* and *Bay*, and the *Sea*, on one Hand, and *Cheſopeak Bay*, on the other.——7. Another Matter which *confined* the Northern End of that dividing Line, is very expreſs and remarkable, and falls in exactly with *our* Conſtruction of Lord *Baltimore*'s Patent, and with the expreſs Words of the *Penſilvania* Patent; for, that Dividing Line was, by *this* Order, to run from the Latitude of Cape *Hinlopen to* the 40th Degree of Northern Latitude; but not, *through* all that Degree, up to the 41ſt Degree.——8. All the World underſtood this as a Judgment *in the Favour of Mr.* Penn, who was all along ſaid to have been *a Party* in the Conteſt; Indeed, nominally, it was ſaid one Half ſhould belong *to his Majeſty*, (the Duke of *York* being *then* become King.) But, the very Order, itſelf, is directed to my Lord *Baltimore* and *William Penn* Eſq; and their *reſpective* Officers, to take notice of it, and give due Obedience to it; and, had the King and Council intended to have tript up the Tenant Mr. *Penn*'s Title, it had been a little hard and unnatural to have ordered *him to run a Line*, in order to get Land meerly for the King, but not for himſelf.

If it be aſkt why, after this Determination was made, Mr. *Penn* did not get further Aſſurance from the King? The Anſwer is, that tho' it was agreed and ordered *how* the Lower Counties ſhould be divided, yet, the *Line* of Diviſion was not run, but was *ſtill to be done*. And even *yet* remains to be done. We hoped to have done it by means of the Agreement of 1732, but that Agreement the Defendant will not execute. And, till the Diviſion Line ſhould be run, no regular Conveyance could be made. And that Diviſion Line not being run in that King's Time, (who abdicated before the 7 Years which were mentioned in his Covenant expired) Mr. *Penn* therefore could not, at any Time *hitherto*, apply for further Aſſurance.

Chap. VIII. From the firſt Determination of the King in Council on the 13th of *November* 1685. down to the *ſecond* Determination in the Plaintiffs Favour in the Year 1708.

1685, *Dec.* 10. FROM the Records in *Suſſex* County. At *a Court held* in the Name of *William Penn* Proprietary and Governor of *Penſilvania*, and the Territories, at *Lewes* for the County of *Suſſex*, the 8. 9. and 10th Days of *December* 1685. *Iwottama Samam*, the *Indian* Shackamacker of *Aſſawawmat*, ſigned, ſealed, and delivered an Indenture of Sale for 1000 Acres of Land to *Norton Claypoole*, called the *Indian* Grove, ſcituate on the *South* ſide of the *Indian River*, and acknowledged the Sale thereof to the ſaid *Claypoole*, according to the Indenture of Sale ſigned in the Docket by Juſtice *Watſon*, one of the Members of the Court.——Alſo the ſame Shackamacker

ſigned

ſigned, ſealed and delivered an Indenture of Sale for 500 Acres of Land, ſcituate on the *North* ſide of the *Indian River*, to *Matthew Taylor* Merchant of *New York*, and acknowledged the Sale thereof according to the Indenture of Sale.——*Suſſex* Records, N° 17. Fol. 26.

Note, Neither of theſe Indentures appear; neither are they ſaid to be recorded. This ſhews, however, that *Courts* were held in Mr. *Penn*'s Name, that thoſe Courts exerciſed Juriſdiction on both ſides of *Indian River*, and that the Lands, about *Indian River*, were not then ſettled, but were, *piece by piece*, bought, from time to time, from the *Indians* then. And you remember there was an Order of *Suſſex* Court made on 1. *January* 1680. that none ſhould ſeat down on Lands, till they brought the *Indians* to Court to acknowledge they had ſold thoſe Lands.

1686, *Sept.* 14. 16. From the *Suſſex* Records, *an Indenture* made in the 7th Year of the Proprietary Government, between *John Oakie* of the County of *Suſſex* in the Territories of the Province of *Penſilvania* of the one Part, and *John Barker* of the other Part, It recites the forementioned Grant, from Proprietary *Penn*'s Commiſſioners, to *John Oakie*, dated the 27th of *January* 1684, of *Mulatto Hall*, on the *South* ſide of *Indian River*, containing 800 Acres, now the ſaid *Oakie*, in Conſideration of 30 *l.* alienates unto *John Barker* 400 Acres, being one Moyety thereof; with Warranty againſt all Perſons, the Rents from henceforth to grow due to the Proprietary only excepted.——And there is an *Act of the Court* held at *Lewis* for the County of *Suſſex* the 14. 15. and 16th of *September* 1686, endorſed on the ſaid Deed, and ſigned by the Clerk of the Court, that *Oakie* acknowledged that Sale and Conveyance according to the Contents there within written.——*Suſſex* Records, N° 17. Fol. 30. 31.

4° Will. & Mariæ, 1691. *Oct.* 25. From the Chappel of the Rolls, a Commiſſion under the Great Seal, from King *William* and Queen *Mary*, to *Benjamin Fletcher* Eſq; It recites that Colonel *Fletcher* had, by Letters Patent under the Great Seal of the 18th of *March* then laſt, been appointed Governor of *New York*.——It alſo recites, Fol. 4. That, by reaſon of great Neglects and Miſcarriages in the Government of our Province of *Penſilvania* in *America*, and the *Abſence of the Proprietor*, the ſame was fallen into Diſorder and Confuſion; by means whereof not only the Publick Peace and Adminiſtration of Juſtice (whereby the Crown's Subjects ſhould be preſerved in thoſe Parts) was broken and violated, but there was alſo great Want of Proviſion for the Guard and Defence of the ſaid Province againſt the Enemies of the Crown, whereby the ſaid Province, and the adjacent Colonies, were much expoſed, and in Danger of being loſt from the Crown of *England*.

For the Prevention whereof as much as in us lies, and for the better Defence and Security of our Subjects inhabiting thoſe Parts, *during this Time of War*, we find it *abſolutely neceſſary* to take the Government of our Province of *Penſilvania* into *our own Hands*, and under our *immediate Care* and Protection.

Therefore conſtituted and appointed Colonel *Fletcher* to be Captain General and Governor in Chief in and over our Province of *Penſilvania* and Country of *Newcaſtle and all the Tracts of Land depending* thereon in *America*; and commanded him to take the ſaid Province and *Country* under his Government.

And, for the better governing and ruling the ſaid Province and Country, *and the Tracts and Territories depending thereon*, their Majeſties gave and granted, unto the ſaid Colonel *Fletcher*, all and every the *like* Powers and Authorities, as by the former Commiſſion was given and granted to him for the ruling and governing of *New York*; To be exerciſed, in like manner, by Colonel *Fletcher*, in and over our ſaid Province of *Penſilvania* and Country of *Newcaſtle, and the Territories and Tracts of Land depending thereon in* America.

And to appoint, and ſuſpend, a Lieutenant Governor, and a Council there.

To hold, exerciſe and enjoy the ſaid Office and Place of Captain General and Governor in Chief in and over our Province of *Penſilvania* and Country of *Newcaſtle, and the Territories and Tracts of Land depending thereon in* America, during our Will and Pleaſure.——This Copy is proved by Mr. *Eulmer* and is Exhibit *Rocha*, N° 7.

Note, This Commiſſion was proved not ſo much with any deſign to make uſe of it in our favour, as to obviate any Objection that might be made againſt us, that the Crown, once, took the Government from Mr. *Penn*; which, you are pleaſed to obſerve, was not of the lower Counties *only*, or upon account of any *Defect of Title* in Mr. *Penn*, but, for *Reaſons of State*; and the Crown took the Government of *Penſilvania* itſelf from Mr. *Penn*, as well as that of the *Lower Counties*. Indeed, King *William* did not greatly confide in Mr. *Penn*, nor in the then Lord *Baltimore* (who was a *Roman Catholick*) and his Majeſty wanted both their Governments into his own hands.——Sundry Lawyers Opinions were taken thereon, at length, the Crown was adviſed that, *for Reaſons of State*, it might be done; and thereupon, for Reaſons of State, it was done, both as to Mr. *Penn* and Lord *Baltimore* alſo.——But Mr. *Penn* ſo very well cleared himſelf to the Satisfaction of the Crown that his Government was reſtored to him in leſs than 22 Months from the Date of this Commiſſion, even during that War: Whereas the Crown kept the Government of *Maryland* in their own Hands, *above* 25 *Years*, from 1691 to 1716, before they reſtored that to the Lord *Baltimore*.

1652, *Nov.* 10. From the Records in *Suſſex* County an Indenture of this Date between *John Barker* of the County of *Suſſex annext unto the Province of* Penſilvania, and *Peter Waples late of* the County of *Somerſet* in the Province of *Maryland, but now of the aforeſaid County of* Suſſex *Planter*; reciting a Patent granted by Proprietary *Penn*'s Commiſſioners on 25. *September* 1691. unto one *Richard Patte* deceaſed, of a Tract of Land on the *South* ſide of the *Indian River* at the Head of a Neck of Land called Pine-Neck in the ſaid County of *Suſſex*, containing 300 Acres of Land, and that *John Patte*, Son and Heir of *Richard Patte*, had conveyed the ſame to the ſaid *John Barker*; now the ſaid *Barker*, for 4500 Pound of Tobacco, conveys the ſame to the ſaid *Peter Waples*, warranted againſt all Incumbrances, the Rents from henceforth to grow due to the Proprietor only excepted.

With an Endorſement thereon atteſted by the Clerk of the Court that at a Court held at *Lewis* for the ſaid County of *Suſſex* on 5th *September* 1694, *Barker* acknowledged that Deed in open Court.——*Suſſex* Records, N° 17. Fol. 32, 33.

6° Will. & Mariæ, 1693. *Aug.* 20. From the Chapell of the Rolls, *a Commiſſion* under the Great Seal to *William Penn* Eſq; recites that, *upon Information* that by reaſon of great Miſcarriages in the Government of our Province of *Penſilvania* in *America*, and the Abſence of the Proprietor, the ſame was fallen into Diſorder and Confuſion, by means whereof not only the Publick Peace and Adminiſtration of Juſtice was broken and violated, but there was alſo great want of Proviſion for the Guard and Defence of our ſaid Province againſt our Enemies, whereby *it was apprehended* that our ſaid Province and the adjacent Colonies were much in danger of being loſt, from the Crown of *England*; For Prevention whereof, as much as in us lay, and for the better Defence and Security of our Subjects inhabiting thoſe Parts *during this time of War*, we found it abſolutely neceſſary to take the Government thereof into our Hands, and into our immediate Care and Protection, and did, thereupon, by Letters Patent of 21ſt *October* in the 4th Year of our Reign conſtitute and appoint *Benjamin Fletcher* Eſq; our Captain General and Governor in Chief in and over our ſaid Province of *Penſilvania* and Country of *Newcaſtle and all the Territories and Tracts of Land depending thereon in* America, *&c.*——*And whereas* humble Application has been made unto us, by *our truſty and well-beloved* William Penn Eſq; Proprietor of our ſaid Province of *Penſilvania*, that he may be reſtored to the Adminiſtration of the Government thereof, *as formerly*, *And whereas* the ſaid Proprietor has given us good Aſſurance that he will take care of the Government of our ſaid Province *and Territories*, and provide for the Safety and Security *thereof* all that in him lies——*We have* thereupon thought fit to *reſtore* him to the Adminiſtration of the Government of our ſaid Province *and Territories*; *And accordingly* our Will and Pleaſure is that ſo much of our ſaid Commiſſion, bearing Date 21 *October* in the 4th Year of our Reign, as appointed Colonel *Fletcher* Governor of our ſaid Province of *Penſilvania*, Country of *Newcaſtle, and the Territories and Tracts of Land depending thereon* in *America*, together with all the Powers, *&c.* thereby granted for the ruling and governing of our ſaid Province and Country, do, from the Publication of theſe our Letters Patent, ceaſe, determine and become void; And accordingly, the ſame are hereby declared void; Of which all Perſons whom it may concern are to take notice and govern themſelves accordingly under Pain of our higheſt Diſpleaſure.——This is proved by Mr. *Bulmer* and is Exhibit *Rocha* N° 8.

Note, So that *here* the Crown layd no Claim to the Government of the Lower Counties, but reſtored the Government of the *Territories* to Mr. *Penn*, *as formerly*.

Sept. 5. From the *Suſſex* Records, *an Indenture* between *William Clark* of the County of *Suſſex annext unto the Province of* Penſilvania, Merchant, of the one Part, and *Peter Waples* of the aforeſaid County of the other, reciting that Proprietary *Penn*'s Commiſſioners did by their Patent of 7 *September* 1691, grant to the ſaid *William Clark* a Tract of Land, on the *South* ſide of *Indian River*, in the ſaid County of *Suſſex*, containing 400 Acres. Now for the Conſideration of 4300 Pound of Tobacco, *Clark* conveys the ſame to *Waples*, free of all Demands, the Rents and Services from henceforth to grow due to the Proprietor and Government only excepted.—With an Endorſement ſigned by the Clerk of the Court that *Clark* acknowledged that Deed in open Court held at *Lewis* for the ſaid County of *Suſſex* upon 5 *September* 1694.——*Suſſex* Records, N° 17. Fol. 34.

1694, *March* 6. At a County Court or Court of Common Pleas held in their Majeſties Names at *Lewis* for the County of *Suſſex* on the 6th and 7th Days of *March* 1694, before the Juſtices of the ſaid Court, after ſeveral Proceedings there ſtands recorded thus, *The Court* cauſed a Letter to be written, to the Juſtices in *Maryland*, relating to ſome *Difference* between the two Governments; and ordered the Clerk to record the Letter, which follows there, and is to this Effect; We their Majeſties Juſtices of the Peace, in Court ſitting, are given to underſtand that *John Barker* and *Charles Tindall*, Inhabitants on the *South* ſide of *Indian River*, within *this* County and Government, ſtand bound over to *your* Quarter Seſſions, for not owning the Authority of *your* Government, thought fit to ſignify to you that *moſt* of the Lands, on the ſaid *South ſide* of the ſaid *Indian* River, and particularly the Lands that *they* live upon, were taken up, and ſurveyed by Grant, when this Place was under the Government of *New York*, and ſince patented under *William Penn* Eſq; abſolute Proprietary; and that the ſaid above-named Perſons poſſeſs their ſaid Lands by *the ſaid* Right; and have, *all along*, paid Rents and Duties unto the ſaid Proprietor and Government; And whereas ſome of your County have pretended ſomething of an Order of King and Council, that the Tract of Land, lying between the *River and Bay* of *Delaware* on the one ſide, and *Cheſopeak* Bay on the other ſide, be divided in *two* equal Parts, by a Line, from the Latitude of Cape *Inlopen*, to the 40th Degree of Northern Latitude, and that one half thereof lying towards *Cheſapeak* Bay remain to the Lord *Baltimore*, and that half Part lying towards the River and Bay of *Delaware* unto *William Penn* Eſq;——But, if any apprehend *ſo*, they are under a great *Miſtake*, for, the Order of King and Council is, That, for avoiding further Differences, the Tract of Land lying between the River and Bay of *Delaware and the Eaſtern Sea* on the one part, and *Cheſapeak* Bay on the other, be divided *into* equal Parts, by a Line from the Latitude of Cape *Henlopen* to the 40th Degree of Northern Latitude, and that one half thereof, lying toward the River and Bay of *Delaware and the Eaſtern Sea* be adjudged to belong unto his Majeſty, and that the other half remain to the Lord *Baltimore* as compriſed within his Charter.——Now, ſome of your Government have, alſo, alledged that *Cape Henlopen*, and *Cape Inlopen*, are one and the *ſame* Cape, which, likewiſe muſt be a great *Error*; for, if ſo, there had been no need for the King and Council to have mentioned *the Eaſtern Sea in the ſaid Order*. All which, being duly deliberated, Quære, Whether it be not moſt fit to abſtain all Acts of Violence, and Breach of good Neighbourhood, on either part, till ſuch time as the *Diviſion* be made and compleated according thereto; which we believe will not be long. Theſe things we have agreed to offer to your Conſideration, and may conduce to the Relief of the ſaid *Barker* and *Tindall*.——*Suſſex* Records, N° 17. Fol. 35. 36.

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7 & 8° Will. 3tii, 1696. An *Act of Parliament* was paſt, for preventing Frauds and regulating Abuſes in the Plantation Trade, which contained many *new* Regulations for the Plantations in divers Reſpects.——By the 4th Clauſe, all Governors in the Plantations were to take an Oath to obſerve the Acts of Trade.——By the 9th Clauſe, all Laws of the Plantations contrary to the Acts of Trade therein mentioned then in Being, or repugnant to the then preſent Act, or to any future Act which ſhould relate to the Plantations, were declared null and void.——By the 12th Clauſe Places of Truſt in the Colonies were to be in the hands of native-born Subjects.——By the 16th Clauſe Perſons claiming a Right or Propriety in any Iſlands or Tracts of Land on the Continent of *America* by Charter or Letters Patent ſhould not alien or ſell the ſame other than to the natural born Subjects of *England*, *Ireland*, *Wales*, or *Berwick* upon *Tweed*, without Licence from the Crown by Order in Council.——And by the latter Part of the ſame Clauſe, "*All Governors* nominated and *appointed by any* ſuch Perſons or *Proprietors* who ſhall be intitled to make ſuch Nomination, *ſhall* "*be allowed and approved of by his Majeſty*, his Heirs and Succeſſors as aforeſaid, and ſhall take the Oaths appointed by this or any other Act to be taken by the Go- "vernors or Commanders in Chief in *other* his Majeſty's Colonies and Plantations, before their entring upon their reſpective Governments, under the like Penalties as "his Majeſty's Governors and Commanders in Chief are by the ſaid Acts liable to."——Printed Act of Parliament 7. & 8. W. 3.

8th & 9th Will. 3d, 1696. *An Act of Parliament* was paſt intitled, An Act for making good the Deficiency of ſeveral Funds, *&c.* and for enlarging the Capital Stock of the Bank of *England*, &c. By a Clauſe wherein, the foregoing Clauſe in the laſt Act of Parliament is recited, and that thereby all the *then* preſent Governors and Commanders in Chief of any *Engliſh* Colonies and Plantations were, before the 25th of *March* 1697, and all who *ſhould* be made Governors, before their *entring* into their Government ſhould take an Oath to obſerve the Acts of Trade therein mentioned.——Now, further *Time* is given for adminiſtring that Oath, to the *then* preſent Governors, and ſuch Oath was to be taken before ſuch Perſons as his Majeſty ſhould appoint.——Printed Act of Parliament 8. & 9. W. 3.

9° Will. 3tii, 1697. *Apr.* 30. *A Commiſſion* under the Great Seal of *England* entred upon the Records of *Penſilvania* directed to *Edward Randolph*, *Robert Quarry*, *Richard Holliwell*, *Edward Chilton*, *John Moor* and *Jaſper Yeates*, Eſquires, or any 5 of the *Members of the Council*, and the Collector of our Cuſtoms for the time being, within our Province of *Penſilvania*, reciting the ſaid Clauſe in the Act of the 8th and 9th of King *William*. And reciting that the Perſons appointed to adminiſter the ſaid Oath were by ſome Accidents prevented from performing the ſame *within the Time* limited by the ſaid Act; To the end the good Intent of the ſaid Act might not be diſappointed, for want of time to put the ſame in Execution, it had been enacted that *further* Time ſhould be allowed for adminiſtring the ſaid Oath, the King therefore appoints and authorizes the ſaid Perſons, or any 3 or more of them, to adminiſter the Oath thereunto annext, unto the Governor or Commander in Chief of the ſaid Province of *Penſilvania*.——*Penſilvania* Records, N° 7. Fol. 4.

March 17. From the *Penſilvania* Records Copy of an Entry of an Endorſement on the ſaid Commiſſion, that by vertue of thoſe Letters Patent, *William Markham* Eſq; Governor under *William Penn* Eſq; abſolute Proprietor of the ſaid Province and *Territory* thereunto belonging, made Oath as was therein directed, ſigned by 4 of the Commiſſioners.——*Penſilvania* Records, N° 7. Fol. 6.

1698, *May* 27. From the *Penſilvania* Records, Copy of an Entry of another *Endorſement* on the ſaid Commiſſion, that *William Markham*, *Lieutenant Governor* of the ſaid Province (by vertue of a *late* Commiſſion, granted to him by *William Penn*, abſolute Proprietor and Governor of the ſaid Province and *Territories* thereunto belonging) took the Oath therewithin directed, in full Council, held at *Philadelphia*; becauſe a Quorum of the Commiſſioners (expreſly) named in that Commiſſion could not be got together at that time.——*Penſilvania* Records, N° 7. Fol. 6.

Note, In ſuch Caſe the Commiſſion *was* directed to the *Members of the Council*.

1700, *Sept.* 13. From the *Penſilvania* Records *an Indian Deed*, whereby *Widaagh* alias *Orytaah*, and *Andaggy-junkquagh*, Kings or Sachemas of the *Suſquehannagh Indians*, and of the River under that Name, and Lands lying on both ſides thereof, do declare that, in Conſideration of a Parcel of *Indian* Goods, to them given by their Friend and Brother *William Penn*, Proprietary and Governor of *Penſilvania*, and alſo in Conſideration of the former *much greater* Coſts and Charges the ſaid *William Penn* had been at in treating about and purchaſing the ſame, did give, grant and confirm unto the ſaid *William Penn*

All the ſaid River *Suſquehannagh*, and all the Iſlands therein, and all the Lands ſcituate lying and being upon *both* ſides of the ſaid River and next adjoining to the ſame, extending to the utmoſt Confines of the Lands which are, or formerly were, the Right of the People or Nation called the *Suſquehannagh Indians*, or by what Name ſoever they were called or known; and alſo all Lakes, Rivers, Rivulets, Fountains, Streams, Trees, Woods, Underwoods, Mines Royal and other Mines, Minerals, Quarries, *&c.* and other Royalties, Privileges and Powers, whatſoever, to them or any of them belonging, or by them enjoyed, as fully and amply in all reſpects as they, or any of their Anceſtors, had or could have held and enjoyed. And all the Right, Title, Intereſt, Poſſeſſion, Claim and Demand of them, or the ſaid Nation, or any in Right of the ſame.

And do hereby ratify and confirm unto the ſaid *William Penn* the Bargain and Sale of the ſaid Land, made unto Colonel *Thomas Dongan*, now Earl of *Limerick*, and formerly Governor of *New York*, whoſe Deed of Sale to the ſaid Governor *Penn*, we have ſeen. To hold the ſaid River, Lands and Premiſes to Mr. *Penn* in Fee. —*Penſilvania* Records, N° 7. Fol. 6.

1701, *Apr.* 23. From the *Penſilvania* Records, Copy of *Articles of Agreement* between *William Penn*, Proprietor and Governor of the Province of *Penſilvania* and *Territories* thereunto belonging, on the one Part, and *Connoodagh toh*, King of the *Indians* inhabiting upon and about the River *Suſquehannah* in the ſaid Province, and *Widaagh* alias *Orettyah*, *Koqueeaſh*, and *Andaggy Junkquagh*, *Chiefs of the ſaid Nations of Indians*, and *Wopaththa*, *King*, *Lemoycungh* and *Pemoyajooagh*, *Chiefs of the Nations* of the *Shawonnagh* Indians, and *Abookaſſoough*, Brother to the Emperor, for and in behalf of the Emperor, and *Wewhinjough*, *Cheequittah*, *Jakyewſan*, and *Woopackoa*, *Chiefs of the Nations* of the *Indians* inhabiting in and about the Northern Part of the River *Pottomock* in the ſaid Province, for and in behalf of themſelves and Succeſſors, and their ſeveral Nations and People, on the other Part. —That as there *always had* been a good Underſtanding and Neighbourhood, between Mr. *Penn* and his Lieutenants, ever ſince his *firſt Arrival* in that Province, and the ſeveral Nations of *Indians* inhabiting in and about the ſame, ſo it agrees that there ſhould be, *for ever*, a firm and laſting *Peace* continued between them, and they ſhould live as one Head and one Heart, in true Friendſhip and Amity, as one People. And many particular Clauſes there are therein, for doing Juſtice to each other, and that the *Indians*, whilſt they lived near or among the Chriſtian Inhabitants, ſhould obſerve the Laws of the Government, and have the Privileges thereof, as any other Inhabitants. They acknowledging the Authority of the Crown of *England*, and Government of that Province; and ſeveral Clauſes about Trade. And the *Indians* of *Coneſtogo* ratify the *Indian* Sale made to Mr. *Penn* the 13th of *September* laſt. —*Penſilvania* Records, N° 7. Fol. 7.

Now Mr. *Penn* came over from *Penſilvania* and appointed a new Lieutenant Governor, for the *firſt time*, after the Act of Parliament of the 7th and 8th of King *William* had been made; But from 1682, to this Time Mr. *Penn* had governed the Lower Counties by himſelf and his Deputies without ſigning any Declaration to the Crown.

1702, *Nov.* 11. The Board of Trade made a *Repreſentation* to the Queen in Council, that they had, in Obedience to the Queen's Commands, ſignified to them by Secretary *Hedges*, upon the Petition of Mr. *Penn*, that Colonel *Andrew Hamilton*, appointed by him to be Deputy or Lieutenant Governor of *Penſilvania*, might have her Majeſty's Approbation for the executing of that Truſt, for one Year only, lately repreſented to her Majeſty, before, that, having been informed the ſaid *Hamilton* had been a Favourer of illegal Trade with *Scotland* and other Parts, they did not think it for the Queen's Service that he ſhould receive the Queen's Royal Approbation as Lieutenant Governor of that Province.—But the Queen having, now, ſignified to them her gracious Inclination to gratify Mr. *Penn* in his preſent Requeſt, and conſidering the abſolute Neceſſity which he alledges for a temporary Approbation of the ſaid *Hamilton*, their Lordſhips humbly offer that Security be given to her Majeſty in 2000 *l.* at leaſt, by Mr. *Penn*, or other Perſons, for *Hamilton*'s duly obſerving the Acts of Trade, *&c. as is uſually done* for the Proprietary Governments; "provided always that your Majeſty's Favour herein be not conſtrued or extended in any manner "to diminiſh or ſet aſide your Majeſty's Right and Title to the three lower Counties upon *Delaware* River adjoining to *Penſilvania* [Note theſe laſt Words are more ſoftned upon *future* Approbations]; And their Lordſhips take this occaſion to pray the Queen's Order to Mr. *Penn* that he be obliged to return a ſpeedy Anſwer in Writing to four Queries which they had delivered to him in *May* laſt, which much imported the Good of the Trade and Settlement of thoſe and the neighbouring Parts.——Co. Off. N° 5.

Same Day. The *Queen's Order in Council*, ſtating that Repreſentation *verbatim*, and approving the ſame, and declaring her Majeſty's Allowance of the ſaid *Andrew Hamilton* to be Deputy Governor for the ſaid *William Penn*, of her Majeſty's Province of *Penſilvania*, *and Territories thereunto annext*, for one Year only; provided that the *uſual* Security be firſt given as aforeſaid that *Hamilton* ſhall duly obſerve the Acts for better regulating the Plantation *Trade*, and obey ſuch Inſtructions, *relating thereunto*, as he ſhall receive from her Majeſty, or any acting under her Authority; And provided alſo that the ſaid *William Penn* do forthwith return to the Lords of Trade an Anſwer to the ſaid four Queries; *And do further declare*, under his Hand, that her Majeſty's ſaid Allowance ſhall not be conſtrued in any manner to diminiſh or ſet aſide her Majeſty's *Right and Title* to the three Lower Counties upon *Delaware* River; And the Lords of Trade are to take care that good and ſufficient Security be given to her Majeſty as aforeſaid.——Co. Off. N° 5.

Jan. 21. Another *Repreſentation* from the Lords of Trade to the Queen in Council, That purſuant to the laſt Order they had required from Mr. *Penn* the ſeveral previous Conditions which were therein expreſt, and having received from him a Certificate of Security, given in her Majeſty's Remembrancer's Office, for 2000 *l.* for *Hamilton*'s obſerving the Acts of Trade, in the ſame Form as had been done for other Proprietary Governments, *As likewiſe a Declaration and Promiſe*, under Mr. *Penn*'s Hand, that the Queen's Royal Approbation and Allowance of the ſaid *Hamilton* to be Deputy Governor of the ſaid Province and Territories ſhould not be conſtrued in any manner, to diminiſh or ſet aſide her Majeſty's *Claim* of Right to the ſaid three lower Counties upon *Delaware*; and alſo his Anſwer to the four Queries; and that their Lordſhips were, then, conſidering, (upon the ſaid Queries and Anſwer) the aſcertaining of one current Rate or Value of *Coin* in the Plantations on the Continent of *America*, alſo, the Pretenſions and Claim of Mr. *Penn to the Power of Government* in the three lower Counties; and, in the mean time, they conceived it abſolutely neceſſary for her Majeſty's Service in thoſe Parts, and agreeable to the Charter granted to Mr. *Penn*, that all Perſons in Judicial, or any other Offices in *Penſilvania* and the ſaid Lower Counties, ſhould be obliged to take the Oath or Affirmation directed by the Law of *England*; and that no Judge ſhould be allowed to ſit on the Bench, who ſhould not firſt take the Oath or Affirmation of a Judge, as directed by the Law of *England*, and that all Perſons who in *England* are obliged, and are willing, to take an Oath in any publick or judicial Proceeding, *be admitted* ſo to do by the proper Officers and Judges in *Penſilvania* and the ſaid Counties, and in default thereof, or in caſe the ſaid Judges refuſe to adminiſter the ſame, that their Proceedings be declared void and null; and that the Queen's Pleaſure herein ſhould be ſignified to Mr. *Penn*, and to the ſeveral Judges of her Majeſty's Courts within thoſe Territories; and, conſidering the Uncertainty of the Voyage to *Penſilvania*, they further propoſed that the Queen's Approbation of the ſaid *Hamilton* to be Deputy Governor of that Province ſhould be extended to the 1ſt of *May* 1704, and no longer.——Co. Off. N° 6.

Same Day. The Queen's Order in Council ſtating the ſaid Repreſentation *verbatim*, approving of what was propoſed thereby, and, accordingly ordering, that all Perſons, in Judicial, or any other, Office, in *Penſilvania* and the ſaid Lower Counties, before their entering on the ſame, ſhould take the Oath directed by the Law of *England*, or the Affirmation; and that *no Judge* ſhould be allowed to ſit on the Bench, who ſhould not firſt take the Oath of a Judge, or the Affirmation in lieu thereof; and that all Perſons ſhould be admitted to take an Oath by the proper Officers and Judges in *Penſilvania* and the ſaid lower Counties; in Default of which their Proceedings are hereby declared null and void; and the ſaid *William Penn*, and the ſeveral Judges of her Majeſty's Courts within the ſaid Province and Territories, and all others whom it may concern, are to take notice hereof, and govern themſelves accordingly. ——And her Majeſty being pleaſed to *extend* her Allowance and Approbation of *Andrew Hamilton* Eſq; to be Deputy Governor, *for the ſaid William Penn*, of the ſaid Province of *Penſilvania*, *and the ſaid Territories adjacent*, to the ſaid 1ſt of *May* 1704, and no longer, Her Majeſty is graciouſly pleaſed hereby to declare her Royal Approbation and Allowance of the ſaid *Andrew Hamilton* to be Deputy Governor accordingly.——Co. Off. N° 6. But *Hamilton* preſently afterwards died.

Note, Several of our Witneſſes who have been examined in the Cauſe, ſay that they have not only ſeen many *Dutch*, but ſome *Swediſh* Maps alſo, wherein *both* Capes, *viz.* Cape *Cornelius*, and Cape *Hinlopen*, were laid down exactly as they were in my Lord *Baltimore*'s Map, by which the preſent Agreement was framed. And indeed, while the *Swedes* were in Poſſeſſion, that Part now called *Penſilvania* and the lower Counties, was called *New Swedeland*;

Now we have a *Swediſh Book*, printed in this Year 1702, which treats of *New Sweden*, now called *Penſilvania*, and was writ by *Thomas Campanius Holm*, wherein there is ſuch a Map (at Fol. 27.) with *both* the Capes ſo to it. ——Hiſtory of *New Sweden* in Quarto.

But it is ſubmitted to your Conſideration whether we *can*, or *ſhould* produce it, on the two following Conſiderations, (and eſpecially as we are ſtrong enough without it)

1. No Witneſs has ſpoke to this *identical* Map, as a particular *Exhibit*, tho' they ſay, in general, that they have ſeen *Swediſh Maps*.

2. This Book was printed but in 1702, ſince the Grant of *Penſilvania*; and if *we* produce *modern Maps*, it may let the *Defendant* in to do ſo alſo.

Whereas, if we confine ourſelves to ſuch Maps as *are proved* in the Cauſe, and to ſuch *old Maps* as were antecedent to the Year 1680, nothing can hurt us; but, if we let in *all Sorts* of Maps, we ſhall have *modern* Maps trumpt upon us by the Defendant, ſuch as have been made ſince the Names of the Capes have been *altered*, and we ſhall not be able to ſhew (as Maps commonly have *no Dates*) whether they are ancient Maps or modern ones.

Only thus, all the Maps which name *Penſilvania* muſt have been made ſince 1680.

However, if *new* Maps, tho' *not proved* in the Cauſe, ſhould be let in *againſt us*, in that Caſe, this *foreign* Map is the ſtrongeſt Evidence *for us*; eſpecially as our Proofs ſay the Witneſſes have ſeen *Swediſh* Maps, which by their Account of them muſt be either *this*, or ſome *ſuch as this*.

1703, *July* 11. *The Queen's Order in Council*, made upon reading a Repreſentation from the Lords of Trade, dated the 9th Inſtant, upon the Petition of Mr. *Penn*, that *John Evans* may have her Majeſty's Approbation to be Deputy Governor of *Penſilvania*, *and annext* Territories, in the place of *Andrew Hamilton deceaſed*, and their Lordſhips having received a good Character of the ſaid *Evans*, they have no Objection againſt her Majeſty's Approbation of him *accordingly*; Her Majeſty in Council approving the ſame, Declares her Royal Allowance and Approbation of the ſaid *John Evans* to be Deputy Governor, *for the ſaid Mr. Penn*, of the ſaid Province of *Penſilvania*, *and the annext Territories*, as ſoon as Security ſhall be given for his obſerving the Acts of Trade and otherwiſe, as in the like Caſes; and that Mr. *Penn* do *renew* the Declaration made by him, relating to her Majeſty's *Right* to the three Lower Counties, and the Lords of Trade are to take care that the ſaid Security be forthwith given, and the Declaration made, accordingly. ——Co. Off. N° 7.

July 22. A Repreſentation from the Lords of Trade to the Queen in Council, That they had required from Mr. *Penn* the Performance of the Conditions expreſt in the laſt Order; and had accordingly received from him a Certificate of Security given in the Exchequer for 2000 *l.* that the ſaid *Evans* ſhould duly obſerve the Acts of Trade, in the ſame Form as had been done for other Proprietary Governments; as likewiſe a Declaration and Promiſe, under Mr. *Penn*'s Hand, that her Majeſty's Approbation and Allowance of the ſaid *Evans* to be Deputy Governor of the ſaid Province *and Territories* ſhould not be conſtrued in any manner to diminiſh or ſet aſide her Majeſty's *Claim* of Right to the 3 lower Counties on *Delaware* River; whereupon, their Lordſhips are of Opinion that her Majeſty do grant her Royal *Approbation* of the ſaid *Evans* to be Deputy Governor of *Penſilvania*, *without Limitation of Time*, and of the 3 lower Counties *during her Majeſty's Pleaſure only*; and their Lordſhips lay before the Queen a Draught of Inſtructions, *for Mr. Penn*, *relating to the Acts of Trade*, to the like Effect as have been given to him, and all *other* Proprietors of Plantations, upon the like Occaſion. ——Co. Off. N° 8.

July 30. The Queen's Order in Council, ſtating that laſt Repreſentation *verbatim*, and declaring her Royal *Approbation* of the ſaid *Evans* to be Deputy Governor of *Penſilvania without Limitation of Time*, and of the three lower Counties on *Delaware* River *during her Majeſty's Pleaſure only*. ——Co. Off. N° 8.

We ſee that, not only the Proprietor and People of *Penſilvania*, in their *publick* Acts, but alſo private Perſons (and ſome of *Maryland* alſo) in their *private* Deeds and Tranſactions, call'd the Three Lower Counties, *the Territories annexed to the Province of* Penſilvania; we alſo have ſeen the publick and general Act of Aſſembly, ſo annexing and uniting the ſaid Province and Counties. We ſee the *Crown*, *it ſelf*, in many of its Commiſſions, under the Great Seal, and other publick Acts, Orders of Council and Inſtruments, calls them *the Territories annext to that Province*, yet, the Defendant in his preſent Anſwer, Fol. 13. 14. 15. has the Hardineſs to deny that they were *ever* ſo called by any but Mr. *Penn* and his Dependants only; whereas in his *own* Province he and his Anceſtors paſt many old publick Acts of Aſſembly *expreſsly calling them ſo*, and tho' thoſe *old Maryland* Acts are now repealed and gone, yet we ſhall find in 1704. in 1707. in 1715. and in 1724. Sundry *Maryland Acts of Aſſembly*, declaring them *to be annext to* Penſilvania, and *alſo* conſidering, and taxing them, as a *diſtinct Government* from *Maryland*, ſome of which *Maryland* Acts (*viz.* thoſe in 1704.) we now come to, and the Reſidue of them will be ſtated afterwards, according to their Order of Time.

1704, *Sept.* 30. A *Maryland Act of Aſſembly*, Repealing *all former* Acts of Aſſembly, made or enacted at any Time before the 26 *April* 1704, except two particular Acts therein ſpecified, and except ſuch as ſhall in this preſent Seſſions be revived. ——*Maryland* Stat. Book, Fol. 44.

Same Day. *Another* Maryland *Act of Aſſembly* for laying an Impoſition on ſeveral Commodities exported out of this Province. ——It lays a Duty on ſeveral Sort of Skins exported out of that Province by Perſons inhabiting or reſiding *within* the Province of *Maryland*, and laying, on the Exportation thereof by *Non-Reſidents*, *double* the Duties appointed to be paid by Perſons inhabiting or reſiding within the Province. ——It alſo lays a Duty on Pork, Beef or Bacon exported out of that Province by Perſons not being Inhabitants of *that* Province, and the *Non-Reſidents* exporting the ſame without Certificate of the Duty paid, to forfeit the ſame. ——And, for the better underſtanding what Perſons ſhall be adjudged Non-Reſidents, it enacts that all Perſons, trading to and from *that* Province, ſhall be adjudged *Non-Reſidents*, not having a ſeated Plantation of 50 Acres in which they ſhall have reſided for a whole Year, and that within 12 Months before they claim any Benefit by this Act, or that have a Houſe, of ſuch a Dimenſion, in ſome Port or Town, as his Freehold, wherein he ſhall have reſided for a whole Year as aforeſaid. ——And that no ſuch Perſon, trading to and from *this* Province, having Houſes in any Town or Port *within the ſame*, whereby they may claim any Benefit or Freedom in this Act given to the Inhabitants *thereof*, ſhall enjoy any ſuch Benefit or Privilege longer than they, in ſuch Port or Town, ſhall actually inhabit and reſide. ——*Maryland* Stat. Book, Fol. 29.

Now if the lower Counties were *Part of Maryland*, the Inhabitants there would be free by this Act, but we ſhall, in Evidence, find that the Inhabitants, in the lower Counties, are conſidered as liable to pay theſe double Duties, (when they trade out of *Maryland*) as being *Non-Reſidents* in *Maryland*. ——And we have yet much *clearer* Inſtances than this.

Another

1704, *Sept.* 30. *Another* Maryland *Act of Aſſembly* confirming to the Governor of this Province the Duty of 3 *d. per* Ton upon the Burthen of Ships and Veſſels. Lays that Duty upon *all* Ships and Veſſels trading and coming into *that* Province, *except* ſuch Ships and Veſſels as are *bona fide* built in, or belong to the People of *this* Province.——*Maryland* Stat. Book, Fol. 44.

This Duty we ſhall find, in Evidence, demanded of Ships belonging to the lower Counties; *ergo*, they are *not* in the Province of *Maryland*.

1707, *Apr.* 15. *Another* Maryland *Act of Aſſembly* for preventing the Exportation of Tobacco *out of this* Province by Land, before the Duties be paid or ſecured.——Recites that it has been a Practice, by Merchants and other Inhabitants, as well of *this* Province, as of the Province of *Penſilvania*, *and the Territories thereunto belonging*, to export by Land, from the upper Parts of *this* Province, *into* Penſilvania *and the Territories thereof*, Tobacco, without paying or ſecuring the Duty, to the Prejudice of the Trade of *this* Province.—— It enacts that all Perſons who have Tobaccos in the upper Parts of *this* Province, and who ſhall permit the ſame to be carried out of their Houſes in order to be rolled or carried over *Land*, *into* the Province of *Penſilvania*, *or Territories thereunto belonging*, without a Certificate of the Duties paid, ſhall forfeit 10 *l.* Sterling *per* Hogſhead.——*Maryland* Stat. Book, Fol. 49.

This anſwers in both Points. 1. It ſhews that there are *Territories belonging to* Penſilvania; and 2. That they are *out* of the Province of *Maryland*, and we ſhall find, in Evidence, this Act enforced againſt People of the lower Counties.

1708, *June* 2. *A Report* from the Lords of Trade to the Queen in Council, made in Obedience to an Order of Reference of the 20th of *May* upon the Petition of *William Penn* Eſq; praying that Captain *Charles Gookin* may have the Queen's Approbation to be Deputy Governor of *Penſilvania* in the place of *John Evans* Eſq; whereby their Lordſhips repreſen. to the Queen that having received a good Character of the ſaid *Gookin* from Lieutenant General *Erle*, in whoſe Regiment he had ſerved many Years, they had no Objection againſt her Majeſty's Approbation of him accordingly, Security being firſt given for his obſerving the Acts of Trade and Navigation as in like Caſes, and that Mr. *Penn* do *renew* the Declaration made by him relating to her Majeſty's *Right* to the three Lower Counties.——Co. Off. N° 9.

June 26. *The Queen's Order in Council*, ſtating that Report *verbatim*, Her Majeſty in her Privy Council, approving the ſame, is pleaſed to declare her Royal Allowance and Approbation of the ſaid *Charles Gookin* to be Deputy Governor of the ſaid Province of *Penſilvania*, in the place of the ſaid *John Evans*, as ſoon as Security ſhall be given for the ſaid *Gookin*'s obſerving the Acts of Trade and otherwiſe, as in the like Caſes has been uſual; and that Mr. *Penn* do renew the Declaration made by him relating to her Majeſty's Right to the 3 Lower Counties; and the Lords of Trade are to take Care that the ſaid Security be forthwith given, and the Declaration made accordingly.——Co. Off. N° 9.

July 8. A Repreſentation from the Lords of Trade to the Queen in Council, that, in obedience to the laſt Order relating to the Queen's Royal Approbation of *Gookin* to be Deputy-Governor of *Penſilvania*, *and annext Territorys*, they have required, from Mr. *Penn*, the Performance of the Conditions therein expreſt, and having received from him a Certificate of Security given in the Exchequer for 2000 *l.* that the ſaid *Gookin* ſhall obſerve the Acts of Trade, in the ſame Form as has been done for *other* Proprietary-Governments; as likewiſe, a Declaration and Promiſe, under Mr. *Penn*'s Hand, that the Queen's Approbation and Allowance of the ſaid *Gookin* to be Deputy-Governor of the ſaid Province *and Territorys*, ſhall not be conſtrued in any manner to diminiſh or ſet aſide her Majeſty's *Claim* of Right to the 3 Lower Counties on *Delaware* River, they are of opinion that her Majeſty do grant her Royal Approbation of the ſaid *Gookin* to be Deputy-Governor of *Penſilvania*, *without Limitation of Time*, and of the 3 lower Counties *during your Majeſty's Pleaſure only*; and we lay before your Majeſty a Draught of Inſtructions, for Mr. *Penn*, relating to the Acts of Trade, to the like Effect as have been given to him and all other Proprietors of Plantations upon the like Occaſion.——Co. Off. N° 10.

July 18. The Queen's Order in Council, upon reading that Repreſentation, which is inſerted *verbatim* therein, declaring her Royal Approbation of the ſaid *Gookin* to be Deputy-Governor of *Penſilvania*, without Limitation of Time, and of the three lower Counties on *Delaware* River during her Majeſty's Pleaſure only.——Co. Off. N° 10.

Note. This laſt Report and Order are alſo entred in——*Newcaſtle* Records, N° 11. Fol. 96.

Sept. 3. From *Newcaſtle* Records, the Inrollment of the Commiſſion granted by Mr. *Penn*, as true and abſolute Proprietary and Governor in Chief of the Province of *Penſilvania* and Counties of *Newcaſtle*, *Kent* and *Suſſex*, lying on *Delaware* and the Eaſtern Sea, which ſhortly recites the Patent for *Penſilvania*, and the Duke of *York*'s Poſſeſſion and Deeds to Mr. *Penn* for the three lower Counties, and appoints Colonel *Charles Gookin* to be Deputy or Lieutenant-Governor of the ſaid Province and Counties. Dated in the 20th Year of Mr. *Penn*'s Government.——*Newcaſtle* Records, N° 11. Fol. 95.

Oct. 6. 7. Original Indentures of Leaſe and Releaſe, whereby, in conſideration of 3100 *l.* paid by *Henry Gouldney*, *Joſhua Gee*, *Silvanus Grove* and *John Woods*, 1000 *l.* by *Thomas Callowhill*, 1500 *l.* by *Thomas Callowhill*, *Thomas Oade* and *Jeffery Pennell*, and 1000 *l.* by *John Field* and *Thomas Cuppage* (making in all 6600 *l.*) The ſaid *William Penn* the Patentee, and *William Penn* Eſq; then his Son and Heir apparent, mortgaged unto the ſaid *Henry Gouldney*, *Joſhua Gee*, and others, the Province of *Penſilvania*, and all Franchiſes, Powers, and Territories thereunto belonging, and all Rents, Iſſues and Profits, and the ſaid Town of *Newcaſtle*, and the Tract of Land within the Compaſs or Circle of 12 Miles about the ſame; and all Iſlands in the River *Delaware*, and the ſaid River and Soil thereof, with all Rents, Franchiſes and Juriſdictions thereto belonging; and all that Tract of Land upon *Delaware* River and Bay, beginning 12 Miles South of the Town of *Newcaſtle*, and extending South to the *Whorekills*, otherwiſe called *Capin Lopen*; and all Royalties, Franchiſes and Rents thereto belonging; to hold unto the ſaid *Henry Gouldney*, *Joſhua Gee*, and others the ſaid Mortgagees in Fee, *Proviſo* for Redemption on Repayment of the 6600 *l.* and Intereſt, at 6 *per Cent.* on the 8th of *October* 1710.——Original Indentures of Mortgage proved in the Cauſe by Mr. *Page*.

Note, It will appear in Evidence how great Diſtreſs Mr. *Penn* was under at this time, wherefore, this was thought a *proper* Seaſon for that very Lord *Baltimore*, with whom he had had the former Conteſt, and ſo very *many* Hearings in the Years 83, 84, and 85, to make a *ſecond* Attempt againſt Mr. *Penn*.

Jan. 9. The Lord *Baltimore*, by his *Petition* to the Queen in Council, ſuggeſted, that King *Charles* the Second, by a Letter dated the ſecond of *April* 1681, taking notice of a Grant made to Mr. *Penn* of *Penſilvania*, did command the Petitioner and the ſaid *Penn* to join in making a true Diviſion and Separation of the Provinces of *Maryland* and *Penſilvania*, according to the Degree of Northern Latitude; which Letter was ſent to the Petitioner, by Captain *Markham*, together with a Letter from the ſaid *William Penn*, preſſing the Petitioner to a ſpeedy Compliance with his Majeſty's Commands; To which the Petitioner was then, and had been ever, ready to ſubmit, as by the ſaid Letter thereto annext might appear.——That the ſaid *Penn* having, by his Agents, taken private Obſervations of the Degrees, and being informed that the 40th Degree Northerly would *not* give him a *Port* at the Head of the *Bay Cheſopeak*, ſurreptitiouſly procured a *ſecond Letter*, dated 19 *Auguſt* 1682, which having no relation to the *Bounds* of either Province, being obtained by Miſrepreſentation, was by the ſaid *Penn* laid aſide. And thereon the ſaid *Penn* made an Offer to the Petitioner, that if the Petitioner would allow him a convenient *Port* at the *Head* of the ſaid *Bay* of *Cheſopeak* at reaſonable and gentle Rates, he then would, in obedience to the King's *firſt* Letter, join with the Petitioner to take an *Obſervation* at the Head of the ſaid Bay, in order to fix the 40 Degrees of Northerly Latitude, being the *Northern* Bounds of *Maryland*, and Southern Bounds of *Penſilvania*; and that, on no other Terms, he would comply with, or obey, the King's Letter of 2 *April* 1681.——That on 7 *November* 1685, the ſaid *Penn*, *falſely ſuggeſting* that the Petitioner by his Grant from the Queen's Grandfather, was to have *no* Land but what was cultivated by Savages, (tho' the ſaid Suggeſtion was directly *contrary* to the Words and Intent of the Petitioner's Grant) obtain'd *an Order* of Council, for dividing an Iſthmus of Land, lying between the River and Bay of *Delaware* and the Eaſtern *Sea*, on the one Side, and *Cheſopeak Bay* on the other; and thereby has endeavoured *without your Petitioner's being ever heard to, or having notice of ſuch Order*, to deprive your Petitioner of his Inheritance granted to him by the Bounty of the Queen's Grandfather.——Therefore, prays that the ſaid Order, *thus ſurreptitiouſly gotten*, may be ſet aſide, and that the *Boundaries* of the ſaid two Provinces may be aſcertained purſuant to the King's Letter of 2 *April* 1681.——Co. Off. N° 11.

King *Charles* the 2d's Letter to Lord *Baltimore* of 2 *April* 1681. (according to the Copy annext to the foregoing Petition) recited the Grant of *Penſilvania*, juſt then made to Mr. *Penn*, and recommended him, and his Deputies and Officers, to the friendly Aid and Aſſiſtance of the Lord *Baltimore*, willing and requiring Lord *Baltimore* to do him all the Offices of good Neighbourhood which might tend to the mutual Benefit of the King's Subjects within the Provinces under their reſpective Proprieties; and moreover the King thought fit that, in order thereto, Lord *Baltimore* ſhould appoint, with all convenient ſpeed, ſome Perſons, who might, *in Conjunction with* the ſaid *William Penn*, make a true Diviſion and Separation of the ſaid Provinces of *Maryland* and *Penſilvania*, according to the Bounds and Degrees of Northern Latitude expreſt in the ſaid Letters Patent, by ſettling and fixing certain *Land-marks*, where they ſhould appear to border upon each other, for the preventing and avoiding all Doubts and Controverſies that might otherwiſe happen concerning the ſame.—Co. Off. N° 11.

The *Letter*, ſuppoſed to have been writ by Mr. *Penn* to Lord *Baltimore*, according to the Copy annext to that Petition, was dated 10 *April* 1682, and was a very civil, but general Letter, containing nothing in particular or material.—Co. Off. N° 11.

Jan. 9. The Queen's Order in Council, made upon reading the Lord *Baltimore*'s Petition, whereby it was ordered that the ſaid Petition ſhould be referred to the Lords of Trade, to examine the Allegations thereof, and report what they conceived her Majeſty might fitly do therein.—Co. Off. N° 12.

Jan. 27. Hereupon, in a very few Days, Mr. *Penn petitioned* the Queen in Council, ſetting forth that, in 1683, Lord *Baltimore* complained to King *Charles* the 2d in Council that Mr. *Penn* had invaded that Lord's Boundary in *Maryland*; and, praying Redreſs therein, obtained a Summons for the now Petitioner, who was then in *Penſilvania laying the Foundation* of that now growing Colony. That the now Petitioner, in Obedience to ſuch Summons, upon the firſt Notice of it, returned into *England*, to the vaſt Prejudice of his Intereſt in *America*; and in regard both the Lord *Baltimore* and himſelf were Grantees under the Crown, the now Petitioner joined with the ſaid Lord in ſubmitting their *Boundaries* to the Deciſion of the King as their Supreme Landlord.—That the King referred the ſame to the Lords Committee for Trade and Plantations (then conſiſting of the *whole Privy Council*) who, *after ſeveral Hearings* of the Lord *Baltimore* and the Petitioner, and of their reſpective Council and Advocates, in the Years 84 and 85, *and long Deliberation* had of the Allegations and Proofs produced before them, reported their Opinions thereon, and how the ſaid Boundaries ſhould be ſettled; which Report was in *November* 1685, approved of and confirmed, by an Order of the King in Council.—That the Petitioner, not doubting but that the Lord *Baltimore* would acquieſce under the Royal Determination, *which himſelf had deſired*, the Petitioner and his Tenants have, ever ſince, improved the diſputed Lands which were allotted *to the Petitioner*.—But, to his great Surprize, after 23 Years *quiet Poſſeſſion* under *that* Sentence, the Lord *Baltimore* has lately petitioned the Queen to ſet aſide the King's Order in Council, *which was intended to be final*, which Petition the Queen has referred to the preſent Lords Commiſſioners for Trade and Plantations.——The ſaid Boundaries having been ſolemnly ſettled, by a Judge of Lord *Baltimore*'s own chuſing, after the moſt deliberate and nice Enquiry into the Merits of his Complaint, and having been accordingly enjoyed *ſo many* Years—Mr. *Penn* prayed that the Queen would not countenance an Attempt ſo injurious to Property and the Rights of her Subjects, but would order the Lord *Baltimore*'s Petition to be diſmiſt.—Co. Off. N° 13.

Jan. 27. *By the Queen's Order in Council* made upon reading Mr. *Penn*'s Petition, and taking it into her Conſideration, *Ordered that the Lord* Baltimore's *ſaid Petition ſhould be diſmiſt*; and that the Lords of Trade, to whom that Petition had been by Order of the 9th Inſtant referred, ſhould *not* proceed to examine into the Allegations thereof, as by that Order had been directed.—Co. Off. N° 14.

And ſo Lord *Baltimore*'s *ſecond Application* was diſmiſt.

Chap. IX. From the *ſecond* Determination in the Plaintiffs Favour, in *January* 1708. to the *third* Determination in their Favour, on 23 *June* 1709.

1709, *Apr.* 16. MR. *Penn petitioned* Queen *Anne* in Council that, ſince *both* Provinces of *Maryland* and *Penſilvania* had long *deſired* the Settlement of their reſpective Boundaries, and that this Petitioner had done *his* Endeavour to perform the ſame, and that, in purſuance of divers Orders from the Lords of Trade thereunto annext, ſent, both to the Lord *Baltimore* and the Petitioner; which meeting with a Diſappointment on Lord *Baltimore*'s ſide, his Agents refuſing the Petitioner when upon the Spot, alledging they had no Inſtructions from their Lord for that purpoſe, The Petitioner prays the Queen to direct the reſpective Officers of *both* Proprietaries to purſue the ſaid Orders and former Inſtructions thereupon granted after many deliberate Hearings in the Years 83, 84, and 85.——Co. Off. N° 15.

Surely Mr. *Penn* thought the Order in 85. related *to him*, and was in *his* favour, (though ſaid to remain to his Majeſty) *otherwiſe*, he would not have tried to *enforce* it thus.

Apr. 16. The Queen, *by Order in Council*, upon reading this Petition, referred the Conſideration thereof to the Lords of Trade to ſtate the Matter of Fact according to former Proceedings, and to report to her Majeſty what fit to be done thereupon.——Co. Off. N° 15.

But Lord *Baltimore*, then, was *afraid* of this Order of 1685. and tried every way to get rid of it.

May 19. Lord *Baltimore* preſented *another Petition* to the Queen in Council——Says he petitioned her Majeſty 9. *January* laſt to be *relieved* againſt the Order of Council of 7. *November* 1685. obtained *on falſe Suggeſtions* by Mr. *Penn* Proprietor of *Penſilvania*, whereby an Iſthmus of Land in *Maryland* was ordered to be divided, and one Moyety was adjudged to belong to the Crown and the other Moyety to the Petitioner.——That the Order, ſo obtained, depriving the Petitioner of his Inheritance, *without being ever heard by himſelf or Council*, he did by his ſaid former Petition, pray her Majeſty to ſet it aſide, and that the Boundaries might be ſettled purſuant to King *Charles*'s Letter of 2. *April* 1681.——That the Petitioner hoped her Majeſty would have *heard* that Matter, before herſelf in Council, that thereby he might have made out his *Right* to the ſaid Iſthmus, and have proved the Artifices Mr. *Penn* had uſed to deprive him of his Property; but the Queen having referred his ſaid former Petition to the Lords of Trade, he chearfully ſubmitted thereto, and prepared to verify his Petition and make out his Right before *them*.——That Mr. *Penn*, knowing his Pretenſions would not bear a Scrutiny before *any* Judicature, had lately petitioned the Queen, ſuggeſting that the ſaid Order of 7. *November* 1685 was obtained *after ſeveral Hearings* of the now Petitioner his Council and Advocates; *whereas the Petitioner*

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can fully prove that he had no notice of the ſaid Order, and that the ſame was not inſiſted on, or notified to the Petitioner, by the ſaid *William Penn* till about two Months paſt; and by theſe and other Suggeſtions, which the Petitioner hopes to prove groundleſs and falſe, the ſaid *Penn* has obtained an Order of Council of 27 *January* laſt, for diſmiſſing the Petitioner's Order of Reference to the Lords of Trade, and his Petition alſo—whereby the Petitioner is *wholly deſtitute* of Means to aſſert his Property and prove his Right to the ſaid Iſthmus.——He therefore prays to be heard by his Council againſt the ſaid Order of 7 *November* 1685. and that the Differences between the ſaid *Penn* and the Petitioner, touching the Boundaries between the ſaid Provinces of *Maryland* and *Penſilvania*, might be adjuſted according to King *Charles* the 2d's Letter of 2 *Auguſt* 1681.——Co. Off. N° 16.

So very *bold* an Aſſertion, ſo *ſtrongly* affirmed and repeated, did obtain a Hearing.

1709, *May* 19. *By Order in Council* made upon reading this laſt Petition, her Majeſty ordered that the Matter thereof ſhould be heard *before herſelf* in Council, upon 9th *June* next, whereof all Parties concerned were to take notice, and come prepared to be heard *with their Council learned* at that time, accordingly.——Co. Off. N° 17.

June 9. *Her Majeſty in Council ordered* that the Hearing of the Matter in Difference between Lord *Baltimore* and Mr. *Penn*, appointed for this Day, be put off to the 23d Inſtant, whereof the Parties concerned are to take notice, and come prepared to be heard, *by their Council learned* at that time.——Co. Off. N° 18.

June 23. *An Order. Preſent* the Queen in Council and alſo (amongſt divers other Lords) the Lord Chancellor, the Lord Chief Juſtice *Holt*, the Maſter of the Rolls, and the Lord Chief Juſtice *Trevor* (*every Law Lord of the Council*)——It recites the Lord *Baltimore*'s Petition, and that it had been appointed to be heard in Council.—And accordingly, both Parties this Day, attending, and being *fully heard*, with their Council learned, "And it appearing, by authentick Copies of "Proceedings at this Board, that, as well the Petitioner, as the ſaid Mr. *Penn*, had been divers times heard, before the making of the ſaid Order, her Ma-"jeſty, with the Advice of her Privy Council, is pleaſed to order, that the Lord *Baltimore*'s Petition be *diſmiſt this Board*; and that the abovementioned Order "of Council of 13 *November* 1685. be ratified and confirmed *in all its Parts*, and be put in Execution without any *further Delay*; whereof the Parties concerned are to take notice, and yield Obedience accordingly.——Co. Off. N° 19.

So ended Lord *Baltimore*'s *third* Application.

Chap. X. From *June* 1709. to the Time of the Death of Mr. *Penn* the Patentee in 1718.

1715, *Apr.* 26. AN *Act of Aſſembly paſt in* Maryland, prohibiting the Importation of Bread, Beer, Flower, Malt, Wheat or other *Indian* or *Engliſh* Grain or Meal, Horſes, Mares, Colts or Fillies, from *Penſilvania and the Territories thereto belonging*. It enacts that no Perſon ſhall import from the Province of *Penſilvania*, *or the Territories thereto belonging*, or from any other Plantation, Province or Colony in the Continent of *America*, *into* any Port of *this* Province, any Quantity of thoſe Goods, on pain of Forfeiture.——*Maryland* Stat. Book, Fol. 73.

Apr. 26. *Another* Maryland *Act of Aſſembly*, laying an Impoſition on Negroes and on ſeveral ſorts of Liquors imported, *&c.*—Enacts that the Importers of Rum, Spirits, Wine and Brandy from *Penſilvania and the Territories thereto belonging*, *by Land*, ſhall pay a Duty of 9 *d. per* Gallon, to be collected by the *Naval Officer* of *Cecil* County, and ſhall bring the ſaid Liquors into *this* Province to the Place called *Bohemia Landing*, and to *no other* Place, until the Duties be paid, on pain of Forfeiture. And, before ſuch Liquors ſhall be *water-born* in *Cheſapeak Bay*, the Importer ſhall enter the ſame upon Oath, with the *Naval Officer of* Cecil *County Diſtrict*; and if any *Importer* after he has brought the ſame to *Bohemia Landing* ſhall put the ſaid Liquors on board any Veſſel in *Cheſapeak Bay* before the Duty paid, the ſame ſhall be forfeited. Proviſo that any Perſon importing the Liquors aforeſaid from *Penſilvania* in Sloops, by Sea, through the Capes of *Cheſapeak* into this Province, ſhall only pay the Duty of 3 *d. per* Gallon, as others do.——It alſo lays a Duty of 20 *s. Sterling per* Poll on all *Iriſh* Servants imported into *Maryland* by Land or Water, and the like upon Negroes.——But no Ship built in *this* Province, whereof all the Owners ſhall be actual Reſidents of *this* Province, nor any Ship, Engliſh or Plantation built, purchaſed and held by Owners which are all Reſidents within *this* Province, ſhall be liable to pay *any* the Duty before mentioned.——*Maryland* Statute Book, Fol. 157.

We ſhall ſee in Evidence by and by, that all theſe Duties were conſtantly exacted from Perſons of the lower Counties; *Ergo*, they are of a *diſtinct* Colony, and not imagined, in *Maryland* itſelf, to be a Part of *that* Province, but, as the very Acts call them, *Territories belonging to* Penſilvania.

1716, *Nov.* 12. *An Order* of the Prince (Regent) in Council, made upon a Report from the Lords of Trade, upon a Repreſentation from *William Penn*, praying the Approbation of *William Keith* Eſq; nominated by the ſaid Proprietor to be Lieutenant Governor of that Province, And the Lords of Trade having *no Objections* to his being Deputy Governor, His Royal Highneſs declares his Allowance and Approbation of the ſaid *William Keith* to be Deputy Governor of the ſaid Province of *Penſilvania*, provided that the ſaid *Keith* qualify himſelf for that Truſt, in ſuch manner as the Law requires, and that Security be given for his obſerving the Acts of Trade, and obeying ſuch Inſtructions as ſhall be ſent him from his Majeſty; and provided that Mr. *Penn* renew the Declaration made by him relating to his Majeſty's Right to the three lower Counties; and the Lords of Trade are to take care that ſuch Security be given and ſuch Declaration be renewed accordingly.——Co. Off. N° 20.

Dec. 16. A *Repreſentation* from the Lords of Trade, that they have required from Mr. *Penn* the Performance of the Conditions required by that Order, that they have had a Certificate of Security being given in the Exchequer for 2000 *l.* to obſerve the Acts of Trade, in the ſame Form as for *other* Proprietary Governments; as likewiſe a Declaration and Promiſe under Mr. *Penn*'s Hand that the Approbation and Allowance of the ſaid *Keith* to be Deputy Governor of the ſaid Province and Territories ſhall not be conſtrued in any manner to diminiſh or ſet aſide his Majeſty's *Claim* of Right to the three lower Counties on *Delaware* River, And therefore are of opinion his Highneſs ſhould grant his Approbation of the ſaid *Keith* to be Deputy Governor of *Penſilvania* without Limitation of Time, and of the three lower Counties during his Majeſty's Pleaſure only. And they lay before his Royal Highneſs a Draught of Inſtructions for Mr. *Penn* relating to the Acts of Trade, to the like Effect as has been given to him and all other Proprietors of Plantations on the like Occaſion.——Co. Off. N° 21.

Dec. 17. *By Order in Council*, made on reading the ſaid Report, the Royal Approbation of the ſaid *Keith* to be Deputy Governor of *Penſilvania* without Limitation of Time, and of the three lower Counties on *Delaware* River during his Majeſty's Pleaſure only, is given.——Co. Off. N° 21.

Dec. 29. *A Petition*, preſented to the King at *Hanover*, by the late Earl of *Sutherland*; ſuggeſting that there were conſiderable Arrears due to him ſince the Revolution, amounting to above 20,000 *l.* and he had ſhewn great Zeal and Activity for the Proteſtant Succeſſion, both before and ſince his Majeſty's Acceſſion, and given *ſingular* Proofs of his Fidelity and Affection to his Majeſty, by his Services in *Scotland* during the Rebellion there; wherefore, prays the King to grant him a Charter of certain Lands lying upon *Delaware* Bay in *America*, commonly called the *Three lower Counties*, which he is ready to prove do belong to the Crown.——*Botra* N° 23.

Dec. 29. A *Reference* thereon, dated at *Hanover*, and ſign'd by Mr. Secretary *Stanhope*, whereby his Majeſty referred the ſame to the Lords of Trade to conſider thereof, and report their Opinion what was fit for his Majeſty to do therein, whereupon the King would declare his further Pleaſure.—*Botra*, N° 23.

Dec. & Feb. This Memorial was alſo referred to the Attorney General and to the Sollicitor General by the Secretary of State.—Sec. Off.

1717, *Octob.* 21. Mr. Attorney and Sollicitor General (*Northey* and *Thompſon*) made a *Report* to the King, ſtating the before mentioned Petition.—And that they had given notice of the ſame to the Perſons concerned for *William Penn* Eſq; and ſeveral Mortgagees and Purchaſors under him, *and alſo to the Lord* Baltimore, who, *ſeverally*, claim Title to the ſaid *lower Counties*, being called *Newcaſtle*, *Kent* and *Suſſex*.—That they had heard *them*, *and their Agents*, thereupon. And they certify his Majeſty that Mr. *Penn* is intitled to the Plantation of *Penſilvania*; but that theſe Counties are not included in *ſuch* Grants, and his Title to *Penſilvania* was not then conteſted.

And as to the King's Title, which the Earl of *Sutherland* had undertaken to make out, to the ſaid three lower Counties, he *inſiſted* that the ſame were *gained by Conqueſt*, by the Subjects of the King's Predeceſſors, or granted to the King's Predeceſſors by the Poſſeſſors thereof; and that, thereby, the King's Predeceſſors became intitled to the ſame; for that a Subject of the Crown could not make foreign Acquiſitions by Conqueſt, but for the Benefit of the Crown, and that the *Length of Poſſeſſion* will be *no Bar* to the Crown. That, for ſeveral Years paſt, Mr. *Penn* had had the Poſſeſſion of the ſaid lower Counties, under a *Pretence* of a Grant thereof, to him made in 1682. by the Duke of *York* who then had the Poſſeſſion of *New York* and of the ſaid three lower Counties, but had *no Right* to the ſaid lower Counties, and therefore could not transfer any Right in the ſame to Mr. *Penn*; which appears, for that the Duke of *York*, in 1683, obtained a Warrant, from King *Charles* the Second, to paſs a Patent, whereby the ſaid three lower Counties ſhould have been granted to the Duke of *York*, and a Copy of a Bill, to paſs into a Grant, in *April* 1683, to the ſaid Duke of *York*, of the ſaid three lower Counties, was produced by the Earl of *Sutherland*; who alledged the ſame was *never paſt* into a Grant; and that, if the ſame had paſt into a Grant, it would not have made Mr. *Penn*'s Title to the ſaid three lower Counties good, the Title of Mr. *Penn* under the Duke of *York* being *precedent* to the Title of the Duke of *York*; but that the ſame remained in the Duke of *York*, and is, conſequently, now in the King: And that the King's Title *further* appears, for that after, in *May* 1683, when the Lord *Baltimore* by Petition oppoſed the paſſing the ſaid Bill under the Great Seal, Mr. *Penn*, then, appeared againſt the Lord *Baltimore* as Agent for the Crown, and not on behalf of himſelf; and Mr. *Penn*, under his Hand, has declared that the King's Approbation and Allowance of the Deputy Governor of *Penſilvania* and the three lower Counties, named by him, ſhall not be conſtrued to diminiſh or ſet aſide the Right claimed by the Crown to the ſaid three lower Counties.—Beſides the Earl of *Sutherland inſiſts* that, in the Grant of the Duke of *York* in 1682, to Mr. *Penn*, of the ſaid three lower Counties, there is a Reſervation of *an Account* to be made, of *one Moyety* of the Profits of the Lands thereby granted; touching which *no Account* has yet been rendred by Mr. *Penn*, and that, therefore, if the ſaid Grant in 1682, were effectual, Mr. *Penn* is yet accountable to the King for the Moyety of all the *Profits* of the Lands, ſo granted, from the Year 1682, according to the ſaid Reſervation; and if the Earl cannot, by the King's Favour, be intitled to the ſaid three lower Counties, he prays he may have the *Benefit* of the ſaid *Account*.

That, in *Anſwer* hereto, on behalf of Mr. *Penn*'s Mortgagees and other Purchaſors under him, it is alledged, that King *James*, when Duke of *York*, was ſeiſed in Fee of the ſaid three lower Counties; and as one Argument, to prove ſuch Seizin, they produced the Letters Patent dated 29 *June*, 26 *Car.* 2*di*, whereby King *Charles* granted to the Duke of *York* ſuch and ſuch Lands (which the Report enumerates *verbatim*); within the *Deſcriptions* of which Grant, it has been agreed by *both* Parties, that the ſaid three lower Counties are *not* contained; but, on the behalf of Mr. *Penn*, *&c.* it has been inſiſted that, by the *General Words*, "Together with all "the Lands, Iſlands, Soyles, Rivers, Harbours, *&c.* and all other Royalties, Profits, Commodities and Hereditaments to the ſaid ſeveral Iſlands, Lands and Premiſes be-"longing and appertaining, with their and every of their Appurtenances," the ſaid three lower Counties *did paſs*, *as belonging* to the Premiſes *expreſly granted* by the ſaid Letters Patent; *for that* the three lower Counties *were enjoyed* by the Duke of *York*, together with *New York*, which *was* granted by the ſaid Letters Patent to the ſaid Duke of *York*, *till* he granted the ſame to the ſaid *Penn* in 1682. by the Grants *herein after mentioned*; which ſeems *difficult* to us to be maintained, ſince the *Abuttal* in the ſaid Letters Patent *exclude* the three lower Counties; but they preſume the late Duke of *York* might have ſome *other* Grants thereof, [to we find he *had*, of the three lower Counties *expreſly*] which Mr. *Penn might* give an account, but *cannot*, being under a *Lunacy*.

We further *certify* that, by Indenture dated 24th *Auguſt* 1682, the Duke of *York* bargained, ſold and *enfeoffed*, to the ſaid *William Penn* and his Heirs, the Town of *Newcaſtle* and Tract of Land about the ſame, *&c.* under the yearly Rent of 5 *s.* with a Covenant for further Aſſurance, and appointed Attornies to deliver *Seizin*; and by another Indenture, dated the ſaid 24th *Auguſt* 1682, bargained, ſold and *enfeoffed*, to the ſaid *William Penn* and his Heirs, the *other* Tract South from *Newcaſtle*, and extending South to the *Whorekills* alias *Capin Lopen*, &c. In which *laſt* Indenture there is Mr. *Penn*'s Covenant to account and pay one Moyety of the Profits, with Power of Diſtreſs in caſe of Non-payment, and the Duke appointed Attorneys to deliver *Seizin* of the laſt Premiſes alſo.—That thoſe Deeds were entred in the Office of Records for *New York* on 21 *November* 1682, within which ſaid Grants the three lower Counties *were contained*; but the Covenant to *account* extends *only* to what is included in the *laſt* Grant.

The Report ſtates, alſo, the Order, made by the Commander in Chief and Council at *New York* on 21 *November* 1682, reciting the ſaid two Indentures, and directing the ſeveral *Magiſtrates* to yield Obedience to the Powers thereby granted to Mr. *Penn*.

The Report, likewiſe, ſtates an Affidavit, made by *Thomas Grey*, that he lived in *Penſilvania* from 1699 to 1707, and made out, and ſaw *many* Patents, or Grants and Warrants, whereby *conſiderable* Quantities of Lands, lying in the ſaid three lower Counties, which as he depoſes, are eſteemed to belong to *Penſilvania*, were granted to divers Perſons in Fee; ſome of which Grants or Warrants were ſigned by Mr. *Penn*, and the reſt by his Agents or Commiſſioners, and all ſealed with the Seal of the ſaid Province; and that he has ſeen *great Improvements*, in Building and Planting, by Perſons claiming under *ſuch* Grants. That many of the ſaid Inhabitants, who were reputed to have ſettled Lands in the lower Counties by Grants from the *Swedes* or *Dutch*, when the ſaid Counties were in *their* hands reſpectively, or from the Governors of *New York*, under the late Duke of *York*, when the ſame was in his hands, did, upon making up their Accounts of Quit-Rents, due from them to the ſaid *William Penn* for their Lands, accept new Patents from the ſaid *William Penn* or his Agents, and have ſince much encreaſed their Improvements thereof, both in *Building* and *Planting*. That he has ſeen Patents, or Inſtruments, for conveying Lands, in the ſaid Lower Counties, to divers of the *ancient* Inhabitants, as well from the *Swedes* or *Dutch* as the Governors of

of *New York* under the late Duke of *York*; as alſo Commiſſions under the Hands of ſome one of the ſaid Governors of *New York*, conſtituting *Magiſtrates* and *Officers* in the ſaid Lower Counties——That he believes the Patents of Lands in the ſaid lower Counties, granted by the Governors of *New York*, were regiſtred at *New York*; and that, if Search were made in the *Secretary's Office* there, the ſame would appear ſo to be. That he believes much the greateſt Part of the Inhabitants of the Lower Counties who have Land there, hold the ſame by Title under Mr. *Penn*; and that ſeveral, who hold Land there by *other* Title, have delivered the ſame up, and accepted *new Grants* from Mr. *Penn*.

That it appears, by *other* Affidavits, that the Naval Store Company at *Briſtol* have purchaſed of Mr. *Penn* 3120 Acres, in *Kent* County, and have already, in the Purchaſe, and by Improvements, expended 2000*l.* and are by Articles to lay out 3000*l.* more.

And as to the *Objection* that the Duke of *York*, in 1682, had *no Title* to the Lower Counties, and that *therefore* thoſe Grants, *then* made to Mr. *Penn*, were void, which appears by the Copy of the Bill dated 13 *April* 1683, in order to be paſt into a Grant to the Duke of *York*, and which is, *after* the Grant by the Duke to Mr. *Penn*, and which Bill recites a Surrender of certain Letters Patent dated 22d *March* then laſt (which Grant could not be, then, found) * On the behalf of Mr. *Penn* it was *alledged*, that it was *probable* the ſaid Bill in 1683 might have paſt into a Grant, for they produced, from the *Hanaper Office*, where Entries are made of Grants, that *paſs* the Great Seal, an *Entry* of 16 *April* 1683, of a Grant to the Duke of *York* of the Town of *Newcaſtle*, ſuch Entries not being made there but where Letters Patent *do paſs*; which Patent might happen not to be *inrolled* (as it is not) by the *Neglect* of the Riding Clerk.

* (but that Grant is *now* found)

And as to the *Objection* that, if it were inrolled, the ſame is *ſubſequent* to the Grant to Mr. *Penn*, and that Mr. *Penn* appeared as *Agent* for the Crown againſt the Lord *Baltimore*, they inſiſt that Mr. *Penn*, having a Grant then, ſo lately, from the Duke, might make uſe of the Duke's Name, with his Leave, in Truſt for Mr. *Penn*; which they the rather apprehend, for that the *Poſſeſſion* was always ſuffered to remain with Mr. *Penn*; and that, if the Grant was paſt, and was in Truſt for Mr. *Penn*, it extinguiſht the Covenant from Mr. *Penn* for accounting.

Beſides, in the ſaid laſt Grant to the Duke of *York*, it is recited that the Lands were formerly the Claim and Poſſeſſion of the *Dutch*, and had been ſurrendred unto the Lieutenant Governor of the ſaid Duke of *York*, and had, for ſeveral Years, been in his *Poſſeſſion*, which might enable him to make the Grants in 1682, to the ſaid Mr. *Penn*.

And, on behalf of the *Purchaſors*, it has been inſiſted, that it would be very hard to put them to any Trouble, who have bought under the Title and Enjoyment of Mr. *Penn*, and have laid out great Sums of Money in improving their Purchaſes.

And as to the *Title claimed* by the Lord *Baltimore*, we are humbly of opinion that the ſame has already received *a full and final Determination*; for that, 31 *May* 1683, *Richard Burk*, Gent. Servant to *Charles* then Lord *Baltimore*, praying that the ſaid Bill of 1683 might not paſs the Great Seal, until his then Majeſty ſhould be ſatisfied of the Extent of the Letters Patent, formerly granted to *Cecil* Lord *Baltimore*, wherein the ſaid Town and adjacent Country is alledged to be comprized; which ſaid Petition being referred to the then Lords Commiſſioners for Trade and Plantations, on the 13th of *November* 1685, their Lordſhips made their Report, wherein they *report*, that having examined the Matters, in Difference between the Lord *Baltimore* and *William Penn* Eſq; on behalf of his then Majeſty, concerning a Tract of Land called *Delaware*, they found the Land intended to be granted to Lord *Baltimore*, was only Lands *uncultivated* and inhabited by Savages, and that the Tract of Land then in Diſpute, was *inhabited* and planted by *Chriſtians*, at and before the Date of the Lord *Baltimore*'s Patent, as it had ever ſince, to that Time, and continued as a *diſtinct Colony* from *Maryland*; ſo that their Lordſhips humbly offered their Opinion, that, for avoiding further Differences, the Tract of Land, lying between the River and the Eaſtern Sea on the one ſide, and *Cheas-aſpeak* Bay on the other, be divided into equal Parts, by a Line from the Latitude of Cape *Hinlopen* to the 40th Degree of Northern Latitude, and that one half thereof, lying towards the Bay of *Delaware* and the Eaſtern Sea, be adjudged to belong to his Majeſty, and the other half to Lord *Baltimore*; which Report his then Majeſty was pleaſed to approve of, and to order the ſaid Lands to be divided accordingly, and the Lord *Baltimore* and *William Penn* required to yield due Obedience thereunto; Which Report was alſo confirmed 23d *June* 1709, by her late Majeſty Queen *Anne* in Council.

However, this Petition, on behalf of the Lord *Baltimore*, is a very great Argument that the Bill of 1683 to the late Duke of *York*, *never paſſed* the Great Seal, as on Mr. *Penn*'s behalf is ſuppoſed, for that it being ſtopped, as muſt be preſumed on that Petition or Grant, after that Matter ſettled, which was in 1685, in the Reign of the ſaid Duke, when King of *England*, could not paſs the Great Seal, in the Name of King *Charles*, to the Duke of *York*, then being King of *England*, but the Entry in the *Hanaper* Office might have been made when the Privy Seal was brought to the Great Seal, *to be paſſed* into a Grant.

On the whole matter, we humbly ſubmit it to your Majeſty's Conſideration, whether it will not be reaſonable that *your Majeſty's Title ſhould be eſtabliſhed* by the Court of Chancery *before any Grant ſhould be made* of the Premiſes; and if any Grant ſhould be made, we moſt humbly ſubmit it to your Majeſty, whether the Claims of *Purchaſers or Grantees* under Mr. *Penn*, who have improved that Part of the ſaid three lower Counties, ſhould not be eſtabliſhed; But if Mr. *Penn* ſhould have a Title to the three lower Counties by vertue of the two Grants made to him by the late King *James* in 1682, when Duke of *York*, we have not received any Anſwer why he ſhould not *account*, according to his Covenant in the *laſt* of the ſaid Deeds, for the *Moiety* of the Rents, Iſſues and Profits raiſed by vertue of *that* Grant.

All which is humbly ſubmitted to your Majeſty's Royal Wiſdom.

Note, The foregoing Report on Lord *Sutherland*'s Petition in 1716. was ſo little in his favour that he took nothing by it. It is very long, as here ſtated, and contains many Matters whereof you have had an Account before. But there is a Uſe in ſtating it ſo fully, for you obſerve the *Contents* of it, and how fully and plainly the *Objections* to Mr. *Penn*'s *Title* to the three lower Counties are *therein* ſtated; you alſo obſerve that Lord *Baltimore* was *a Party* to that Report (and the Opinion of the then Attorney and Sollicitor General that he had *no Title*) Now, the Lord *Baltimore*, who was *a Party* thereto, is the very *preſent* Defendant, who, notwithſtanding that, *in one Part* of his Anſwer to our Bill at Fol. 222. would have it be believed that the Plaintiffs impoſed upon him in reſpect to their Title to the three lower Counties, which is impoſſible to have been true conſidering he was a Party to the foregoing Report, and ſo, contrary to Truth, and his own *Knowledge* of the Truth; nay, indeed, he contradicts himſelf in his own long Anſwer, for it is but 14 Sheets before, *viz.* at Fol. 208, he ſwears he *always* knew and believed they had *not* a Title to the three Lower Counties, conſequently they *could not* deceive him therein; Beſides which, it will appear moſt manifeſtly, by and by, that it is of no manner of Conſequence in the whole World, as to *him*, whether they really *had*, or *had not*, a Title to thoſe Counties; ſince it is *he* that conveys thoſe Counties *to them*, and *not they to him*.

1718. Mr. *Penn* made a Will (about 1712) *ſans* Date, and a Confirmation of it, dated 27 *May* 1712.—By his Will taking notice, that his eldeſt Son was well provided for, by a Settlement of his Mother's, and the Teſtator's Father's Eſtate; he deviſes the reſt of his Eſtate in manner following: The Government of his Province of *Penſilvania* and Territories thereunto belonging he deviſed to the Earls of *Oxford* and *Poulett*, on Truſt to diſpoſe thereof to the Queen, or any other Perſon, to the beſt advantage they could, to be applied in ſuch manner as he ſhould therein after direct; and he gave to his Wife *Hannah Penn*, and ſundry others (to the Number of 12 Perſons) all his Lands, Tenements and Hereditaments in *Penſilvania* and the Territories thereunto belonging, or elſewhere in *America*, upon *Truſt* to ſell ſufficient to pay his Debts, and after Payment to convey to each of his Son *William*'s three Children, *Springett*, *William*, and *Gulielma-Maria* in Fee 10,000 Acres each. And (afterwards) 10,000 Acres more to the Teſtator's Daughter *Letitia*; And all the reſt of his Lands, Tenements and Hereditaments in *America* to be conveyed by his ſaid Truſtees to and amongſt his Children which he had by his then Wife, in ſuch Proportions and for ſuch Eſtates, as his ſaid Wife ſhould think fit, and made his ſaid Wife ſole Executrix.——Original Will, to be produced from Doctors Commons, and to which we have examined one of the Witneſſes, *Thomas Pyle*, in this preſent Cauſe.

July 30. Mr. *Penn*, the Patentee, died; leaving a Son *William Penn* junior, and a Daughter *Letitia* by his firſt Wife; and leaving his ſecond Wife *Hannah Penn* and four Sons, the Plaintiffs *John*, *Thomas* and *Richard Penn*, and *Dennis Penn* (who is ſince deceaſed) and alſo a Daughter, *Margaret Penn*, by her.

Chap. XI. From the Death of *William Penn* Eſq; the Proprietary, in 1718, to the Death of Mrs. *Hannah Penn* his Widow and Executrix, in 1726.

17,18 *Nov.* 14. *Nov.* 18. *Probate* granted at Doctors Commons to Mrs. *Hannah Penn* the Widow and Executrix of the Will of her late Husband *William Penn* Eſq;——Original Probate under Seal. Original Deed Poll of *Appointment*, executed by Mrs. *Hannah Penn*, whereby ſhe, in purſuance of the Powers veſted in her by her late Husband's Will, directs and appoints all the reſt and reſidue of the Teſtator's Lands, Tenements and Hereditaments in *Penſilvania* and the Territories thereunto belonging, or elſewhere in *America*, that ſhould remain after the Proviſions in the Will in manner following, *viz.* Three undivided ſixth Parts of the Province of *Penſilvania*, and of all Lands and Profits, &c. therein, to be conveyed, by the Truſtees, to and to the Uſe of, her eldeſt Son, the now Plaintiff *John Penn* in Fee, and the other three 6th Parts thereof, to and to the Uſe of her three other younger Children, *Thomas* and *Richard Penn* (now Plaintiffs) and *Dennis Penn* (ſince dead) in Fee, as Joyntenants.—— And as to the Lower Counties, and all, Lands therein, or elſewhere in *America*, ſhe in like manner directed and appointed the Truſtees to convey three ſixth Parts thereof to the ſaid *John Penn* in Fee, and the other three ſixth Parts to the ſaid *Thomas*, *Richard* and *Dennis Penn*, and their Heirs, as Joyntenants for ever.—— Proviſo that if the ſaid *John Penn* ſhould not pay to his Siſter *Margaret Penn* 1500*l.* at her Marriage or Age of 21, which ſhould firſt happen, In ſuch Caſe ſhe appointed for her Daughter *Margaret* in Fee one third Part of all that had been before appointed for the Uſe of her Son *John*——Deed of Appointment proved by Mr. *Page*.

1720. *William Penn* junior, eldeſt Son and Heir of Proprietary *Penn* died, leaving *two* Sons, *Springett* and *William*, and a Daughter *Gulielma Maria*.

1721, *Octob.* 23. The ſaid *Hannah Penn* the Widow and her then Children, *John*, *Thomas*, *Richard*, *Dennis* and *Margaret Penn*, all Infants, brought their Bill in the Court of Exchequer, againſt the Earl of *Oxford* and Earl *Poulett* (to whom the Government had been deviſed, upon Truſt to ſell and apply the Produce in ſuch manner as was intended to have been, but *was not*, afterwards directed) againſt the ſaid *Springett Penn* the Grandſon and Heir at Law of the Teſtator to eſtabliſh the Will; againſt the ſaid *Henry Gouldney*, *Joſhua Gee* and others, the Survivors of the Mortgagees, to redeem, and alſo againſt *Richard Hill*, *Iſaac Norris* and others the ſurviving Truſtees in the Will, to whom the Lands had been deviſed in Truſt, for to execute their Truſt; and alſo againſt *William Penn* the Grandſon, *Gulielma Maria* the Grand-daughter (and her Husband *Aubrey Thomas*) *Letitia* the Daughter (and her Husband) of the Teſtator, by his firſt Wife, who had Deviſes of 10,000 Acres each under the Teſtator's Will, and againſt his Majeſty's Attorney General, to know whether the Crown would, or would not, go on with a Treaty that had been ſet on foot by the Earl of *Oxford* in 1711 and 1712, to purchaſe the Government from Mr. *Penn* for 12,000*l.*

1722, *Feb.* 6. *Dennis Penn* the Son of the Teſtator died an Infant and without Iſſue.

1722, 1723, 1724. And many Anſwers of the Defendants were put in thereto—— Copy of Bill and Anſwers proved by Mr. *Weſton*. Exc. N° 1, 2, 3, 4, 5, 6, 7, 8.

1723, *Feb.* 17. There was ſuch an Agreement in Writing between the ſaid *Hannah Penn* and the Lord *Baltimore*, not to grant out Lands upon the Borders which had been conteſted, for 18 Months; in which Time 'twas hoped the Boundaries might have been ſettled; and alſo ſuch Proclamations afterwards publiſht by the Lieutenant Governors in *both* Provinces, notifying that temporary Agreement, as the Plaintiffs have charged at Fol. 154. in their Bill, and which the Defendant has fully admitted at Fol. 192. of his Anſwer; but ſuch Agreement, having been miſlaid, is not proved in the Cauſe.

1724, *Octob.* 6. A *Maryland Act of Aſſembly* for repealing Part of the laſt mentioned Act made in *Maryland* in 1715; enacting that ſuch Part of that former Act as impoſed 9 *d.* a Gallon on Rum, Spirits, Wine and Brandy to be imported from *Penſilvania* and *the Territories* thereto belonging *by Land*, ſhould be repealed; but this not to exempt Perſons bringing the ſaid Liquors from *Penſilvania* by Land from paying the *other* Duty of 3 *d. per* Gallon, which is declared to be ſtill due and payable.——*Maryland* Statute Book, Fol 263.

Mr. *Gouldney*, one of the principal Mortgagees died.

1725, *Octob.* 23. *Nov.* The ſaid *Hannah Penn*, *John*, *Thomas*, *Richard* and *Margaret Penn*, filed their Bill of Revivor in the Exchequer againſt the Executor of the ſaid *Goldney*.——Exc. N° 9. *Petition* from Lord *Sutherland* again, to have a Grant of the three lower Counties; and *Reference* of the ſame by the Duke of *Newcaſtle* to the Attorney and Sollicitor General. Theſe are to be proved *viva voce* on the Hearing, there is nothing material in them, only to ſhew that Lord *Sutherland* had ſuch a ſecond Petition depending, and thereby to warrant *Paris*'s Depoſition, who ſpeaks of ſeveral Hearings that there were before the Attorney and Sollicitor General on that Petition.——Exhibit Sec. Off.

During that Suit in the Exchequer, though carried on very adverſarily between Mrs. *Penn* and her Children on the one ſide, and the Heir at Law of the Proprietor on the other, they *both* agreed, thus far, to turn out the Deputy Governor Mr. *Keith* (then become Sir *William Keith*) and to appoint another, *viz.* *Patrick Gordon*.

Jan. 7. From the Records in *Newcaſtle* County, *The Commiſſion* which was this Day granted by *Springett Penn* Eſq; Grandſon and *Heir at Law* of *William Penn* Eſq; by and with the Advice and Conſent of *Hannah Penn*, Widow and Executrix of the ſaid *William Penn*, teſtified by her ſigning and ſealing the ſame, appointing *Patrick Gordon* to be Lieutenant Governor of the ſaid Province of *Penſilvania* and Counties of *Newcaſtle*, *Kent* and *Suſſex*.——*Newcaſtle* Records, N° 11. Fol. 97, 98.

Mar. 4. *A Report from the Committee of Council* made upon the Repreſentation (which had been referred to them the 12th of *February* laſt) of *Springet Penn* Grandſon and Heir at Law of *William Penn* Eſq; deceaſed, and *Hannah Penn* the Executrix of the ſaid *William Penn*, humbly recommending Major *Patrick Gordon* to be Deputy or Lieutenant Governor of *Penſilvania* and of the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware* in *America*, in the room of Sir *William Keith*; and praying his Majeſty's Approbation of him accordingly; and which Report was alſo made upon a Petition preſented by Colonel *Spotſwood* on behalf of Sir *William Keith*, and upon another Petition preſented by the Creditors of Sir *William Keith*, praying that Sir *William* might *not* be removed; their Lordſhips reported that they had received a good Character of Major *Gordon*, and offered their Opinion that his Majeſty ſhould be pleaſed to declare his Allowance and Approbation of Major *Gordon* to be Deputy Governor of the Province of *Penſilvania* *without Limitation of Time*, and of the three Counties of *Newcaſtle*, *Kent* and *Suſſex*, *during his Majeſty's Pleaſure only*, provided the ſaid *Gordon* qualified himſelf, and gave the Security; and provided that the ſaid *Springet* and *Hannah Penn* made a Declaration, in ſuch manner as had been formerly made by the ſaid *William Penn*, relating to his Majeſty's Right to the ſaid three Counties.——Co. Off. N° 22.

1725, *March* 11. *The King by Order in Council*, made upon reading that Report, ordered juſt in the ſame Words as propoſed; and directed the Lords of Trade to take care that the ſaid Security was given, and Declaration made accordingly.——Co. Off. N° 22.

1726, *Apr.* 18. By another Order in Council reciting the laſt Order, and that the Lords of Trade had this Day reported that they had received a Declaration and Promiſe under the Hand and Seal of the ſaid *Springett Penn*, and the like under the Hand and Seal of the ſaid *Hannah Penn*, that his Majeſty's Approbation of the ſaid *Gordon* to be Deputy Governor of the ſaid Province and of the three Lower Counties ſhould not be conſtrued in any manner to diminiſh or ſet aſide his Majeſty's *Claim* of Right to the ſaid lower Counties; and that they had alſo received a Certificate of Security given in the Exchequer, of 2000 *l.* for *Gordon*'s obſerving the Acts of Trade, His Majeſty in Council declared his Royal *Approbation* of the ſaid *Gordon* to be Deputy Governor of *Penſilvania without Limitation of Time*, and of the ſaid three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, *during only his Royal Will and Pleaſure*.—— Co. Off. N° 23.

This laſt foregoing Order is alſo entred in——*Newcaſtle* Records, N° 11. Fol. 99.

Dec. 13. A Decree was made in the ſaid Cauſe in the Exchequer, but that was, unleſs Cauſe, for the Heir at Law, and all the Relations of the Family, by Mr. *Penn*'s firſt Wife, made Default at the Hearing.——Exc. N° 10.

Dec. 20. Mrs. *Hannah Penn* died.

Chap. XII. From the Death of Mrs. *Hannah Penn* in *December* 1726. down to the time of Beginning the *Treaty* with Lord *Baltimore* for the Agreement now in Queſtion.

1727, *Apr.* 20. THE ſaid *John Penn*, *Thomas Penn*, *Richard Penn*, and *Margaret Penn* (after their Mother's Death) brought their Bill of Revivor of the Suit in the Exchequer.—Exc. N° 11.

May 15. Order to revive the ſaid Cauſe.——Exc. N° 12.

July 4. The Cauſe in the Exchequer came on again, and all Parties appeared, and the Court declared that Mr. *Penn*'s Will and Declaration or Confirmation dated 27 *May* 1712, were duly proved. But, as concerning all *other* the Matters and Things in the Cauſe, ordered it ſhould ſtand to be heard the then next *Michaelmas* Term.——Paper Copy of the Decree, Exc. N° 13.——And Exemplification of that Decree under the Seal of the Court of Exchequer.

July 5. A Family Deed of Indenture Sextipartite between the Plaintiffs *John*, *Thomas* and *Richard Penn*, and their Siſter *Margaret Penn*, together with *Thomas Freame* (whom ſhe was then going to marry with) and two Truſtees *Joſeph Wyeth* and *Silvanus Beavan*. Reciting Mr. *Penn*'s Will, and Mrs. *Hannah Penn*'s Appointment, whereby 1500 *l.* was ſecured for the Daughter *Margaret*, (And reciting a ſubſequent Appointment of Mrs. *Hannah Penn*'s, after the Death of her Son *Dennis*, which it's now thought ſhe had no Power to make, having before executed her Power, neither, if the ſecond Appointment were good, would it all vary the Plaintiffs Title,) And reciting the ſaid Decree, and Mrs. *Hannah Penn*'s Will, and ſundry Difficulties ariſing thereon, and many other Matters; For ſettling all Difference it's agreed, *inter alia*, that the ſaid *John Penn* his Heirs and Aſſigns ſhall hold and enjoy one Moyety of all the Teſtator's Eſtate in *America* (ſubject to a Proviſion herein after made for the ſaid *Margaret*) And that the ſaid *Thomas* and *Richard Penn* their Heirs and Aſſigns ſhall hold and enjoy the other half Part thereof as Tenants in common, and not as Joyntenants; Proviſo that *John Penn*'s Moyety ſhall be ſubject to pay to the ſaid *Margaret* 500 *l.* and alſo an Annuity of 50 *l.* during her Life, to be paid to her ſeparate Hands, and alſo with Payment of 1000 *l.* in three Months after her Death, to the ſaid *Wyeth* and *Beavan* in Truſt for her Children, in ſuch manner as ſhe ſhall appoint. And all the Parties thereto agree that the Truſtees, named in their Father's Will, ſhall convey the Lands accordingly——Deed proved by Mr. *Page*.

1729, *Jan.* 13. 14. *Indentures of Leaſe and Releaſe* being a Reconveyance from *Joſhua Gee* and *John Woods* (who were the two only ſurviving Mortgagees) of all the mortgaged Premiſes unto *John Penn* and *Thomas Penn* their Heirs and Aſſigns; as to one Moyety to the Uſe of the ſaid *John Penn* in Fee; as to one Quarter Part to the Uſe and Behoof of the ſaid *Thomas Penn* in Fee; and as to the other Quarter Part to the Uſe of the ſaid *John Penn* and *Thomas Penn* in Fee, but *in Truſt* for the ſaid *Richard Penn* his Heirs and Aſſigns.—— Note, Mr. *Richard Penn* being then *married* was the Reaſon why the *legal* Eſtate was not veſted in him, only the *Truſt* thereof.——Original Deeds of Reconveyance proved by Mr. *Page*.

1730, *Dec.* 30. *Springett Penn*, who was the Grandſon and Heir of Proprietary *Penn*, died unmarried, and his younger Brother, *William Penn*, the Grandſon, became Heir at Law of Proprietary *Penn*.

Chap. XIII. From the Beginning of the *Treaty*, to the Time of executing the Articles of Agreement in Queſtion, and the Commiſſions for running the Lines purſuant to the ſame.

1731, *June* 3. WAS the Day (as will appear in Evidence) when the Parties to this Cauſe had the *firſt* Meeting, in order to the Agreement.

June 3. The written Map then produced and markt and made uſe of by the Plaintiffs on their Parts, in order to the Agreement, which has ſome other *Words* writ upon it, but all the *Lines* and *Outmarks* are *exactly* agreeable to my Lord *Baltimore*'s Map which was afterwards graved and ſtampt, or printed, on the Original Articles of Agreement.—— This Map is proved by *Paris*, and is the Exhibit Par. N° 1. in a marbled Cover.

The Treaty not proceeding at that time, but breaking off then, becauſe at firſt, the Plaintiffs refuſed to agree to the Defendant's Propoſals, the Lord *Baltimore* petitioned the King as follows:

July 1. The Defendant the Lord *Baltimore petition'd* the King, and ſet forth the Grant of *Maryland*, made to his Anceſtor in 1632, and the Deſcription of the Tracts of Land, as they are therein expreſt; and,—That the late *William Penn*, by Grant under the Great Seal, in the Year 1680, became Proprietor of the Province of *Penſilvania*, and his Deſcendants (as the Petitioner believed) ſtill were Proprietors of the ſame. That there had been diverſe Diſputes, between the Petitioner's Anceſtors, and the ſaid *William Penn*, about the *Northern Boundaries* of the ſaid Province of *Maryland*, and *frequent* Application having been made to His Majeſty's Royal Anceſtors in Council, in order to ſettle and aſcertain the ſame, not only in the Year 1685, 1708, but ſo lately as in the Year 1720, by the Widow of the ſaid *William Penn*, and *divers* Letters and Orders had been ſent by His Majeſty's Royal Anceſtors for that purpoſe; but *they had hitherto* had no effect.——That, by reaſon of the ſaid Diſputes, very great Numbers *of the Petitioner's Tenants* refuſed to pay *any Rents*, or to ſubmit themſelves to the Petitioner's Government, or really to any, which occaſioned frequent Diſputes, notwithſtanding the Petitioner's great Care to prevent the ſame. He therefore prayed the King *to order* the Proprietors of the Province of *Penſilvania* forthwith *to join with him* in ſettling and aſcertaining the *ſaid* Boundaries; and, in caſe they *refuſed to comply therewith*, or in caſe the ſame ſhould not be ſettled and aſcertained *within the Space of twelve Months* from that time, that then, and in that caſe, the King would hear the Matter in diſpute, and give ſuch Order, and make ſuch Determination, touching the ſame, as to His Majeſty ſhould ſeem meet.——Co. Off. N° 24.

If that *Petition* had *any* Meaning at all, ſurely it muſt be to carry into execution the Order of 1685, which is mentioned in that Petition; and which Order of 1685, expreſly adjudged the *Right* to the three lower Counties *againſt him*, and had contained Directions for ſettling the *Bounds* of thoſe lower Counties; but which Bounds had *not*, indeed *then*, nor *yet* neither, been ever run out.

July 1. It was ordered that the ſaid Petition ſhould be referred to a Committee of the Lords of His Majeſty's moſt Honourable Privy Council, to conſider the ſame, and report their Opinion thereupon to His Majeſty. ——Co. Off. N° 25.

July 22. The written Heads for an Agreement, then produced by Lord *Baltimore*, and whereof a Copy, full of Abbreviations, was ſoon afterwards delivered by the Defendant's Sollicitor to the Plaintiff's Sollicitor, is in the following Words, *viz.*

1. There ſhall be a Circ of 12 M. *diſt. drawn from* Newcaſtle.

2. The Proprs. of *Penſil.* ſhall be entituled to 15 Miles Soth of *Phila.* by a Weſt Line drawn from the Point of the Soth and North to the Extent of their Weſt Limits compriſed in the Charter of *Penſa.*

3. There ſhall be a Line South drawn from the Eaſt and Weſt Line aforeſaid, which ſhall intercutt the Periphery of *the Circ of* 12 *Miles from* Newcaſtle, untill it intercutt the Parallel of an Eaſt and Weſt Line drawn, the Promontory or Cape called Cape *Hinlopen* at rect Angles.

4. The Lord *Baltemore*, to quit all Pretenſions to the three lower Counties (known to be at preſent compriſed within the Limits aforeſa'd, that is to ſay, within the 12 Miles Circle of *Newcaſtle* and the North and South Line drawn as aforeſaid on the Weſt, and the Bay of *Delaware* on the Eaſt.

5. The Proprtrs. of *Penſa.* to quit all Pretenſions to any Land to the Southward of the Line of 15 Miles from *Phil*, and to the Weſt of the North and South Line heretofore deſcribed, and for the Conſiderations aforeſaid convey to the Lord *Baltimore*, all Right and Title they may have thereunto belonging.

6. For the quieting the preſent Poſſeſſors of the Lands in diſpute, and the better informing the reſpective Proprietors of the Provinces aforeſaid, it is agreed by the Parties contracting that it ſhall and may be lawful for each Proprietor to have Copys at their reſpective Coſts and Charges of the Grants, Patents, and Leaſes, *&c.* by which any of the preſent Claimants held their Land.

And moreover it is mutually agreed that freſh Patents, Leaſes, and Grants, ſhall be made out to all the Poſſeſſors of Land, Houſes, *&c.* within the preſent diſputed, and by this determined, Boundary without any Fines or Arrearages of Rent whatſoever, provided they become Tenants to the reſpective Provinces, ſubject to the Rents and Reſerves common to the Landholders of the reſpective Provinces, ſubject nevertheleſs to uſual Fees to the proper Officers of the ſaid Provinces for the taking out of any new Patents for the Lands or Tenements they at preſent are poſſeſſed of.

This is proved by *Paris*, and is *a very material* Exhibit markt *Par.* N° 2.

We have, moſt particularly, charged this Paper to be of the Defendant's own Hand-writing, at Fo. 179. of our Bill, and at Fo. 415. we have demanded that he may produce it. He in his Anſwer, Fo. 257. admits there was ſuch a Paper, but ſays it's *miſlay'd*, but *if he* finds it, he will produce it.

If he does not, the Reaſon is *moſt obvious*, for this puts an *end* to his Commiſſioners Doubt (which yet he ſays he *approves of*) whether the Circle ſhould be 2 Miles or 12 Miles, from *Newcaſtle?* For here, in *two ſeveral* Places, in his own Notes for drawing up the Agreement in Form, he ſays *twice over*, that the Circle ſhall be 12 Miles *diſtant from* Newcaſtle, and again 12 Miles *from* Newcaſtle.

Note, The Defendant has proved, by his own Sollicitor Mr. *Sharpe*, that the foregoing Notes are *lately found*, and he ſets forth an exact Copy of the ſame *verbatim*, in his Depoſition. For which we are bound to thank him. And it's intended to move, that the Original may be produced at the Hearing by the Defendant, according to his Offer, now that it is found.

Aug. 16. *The Draught of the Articles of* Agreement this Day delivered over to Mr. *Sharpe*, with his own *Directions* thereon, to Counſellor *Wynne*, and his own Marks and Notes thereon, that the Miles were to be mentioned *Engliſh Statute Miles*, &c.——This Paper is proved by Serjeant *Wynne*, and by *Paris*, and is Exhibit, *Par.* N° 3.

Aug. 19. Mr. *Sharpe*'s Letter to Mr. *Paris*, that he had peruſed the Draught of the Agreement between Lord *Baltimore* and Meſſieurs *Penns*, and thought the ſame *perfectly right*, and had ſent it *that Night* to Lord *Baltimore* for his Peruſal, with a Deſire to return it to him as ſoon as he had done with it, and the Moment it came back to Mr. *Sharpe* he would let Mr. *Paris* know it.——This Exhibit is proved by Mr. *Paris*, and is *Par.* N° 4.

This ſerves to prove the *Length of Time* taken to conſider the *Draught*, from *Auguſt* 1731, to 10 *May* 1732.

Sept. 22. 23. *Indentures of Leaſe and Releaſe*, whereby *William Penn*, Grandſon and Heir at Law of Proprietary *William Penn*, in Conſideration of 5500 *l.* Releaſes and Quits Claim to the ſaid Province and Counties, unto the ſaid *John* and *Thomas Penn* in Fee; As to one Moiety to the uſe of *John Penn* in Fee; as to one quarter Part to the Uſe of *Thomas Penn* in Fee; and as to the other quarter Part, to the Uſe of *John* and *Thomas Penn* in Fee, but in Truſt for *Richard Penn*, his Heirs and Aſſigns.———Deeds proved by *Paris*.

Sept. 29. *Bargain and Sale enrolled*, by way of Mortgage, from *John*, *Thomas* and *Richard Penn*, of the Province of *Penſilvania* only, excepting thereout the Government and Powers of Government, to *William Penn* in Fee, for ſecuring 5000 *l.* and Intereſt, *proviſo* for Redemption.——Deed proved by *Paris*.

Feb. 12. By *an Indorſement* made on the Back of the Family Deed of 5 *July* 1727, *Margaret* (*Penn*) and her Huſband *Thomas Freame*, releaſe to the ſaid *John Penn* the 500 *l.* which had been therewithin ſecured to her out of Mr. *John Penn*'s Moiety.———Endorſement proved by Mr. *Page*.

1732, *March* 29. The *new Clauſe*, that Day delivered by Lord *Baltimore*, above 7 Months after the Draught of the Agreement had been delivered over, *viz.* "There muſt be a Clauſe to "prohibit any of the People of the *reſpective* Provinces to carry on any Commerce into the Bays of *Cheſopeak* and *Delaware*, by the means of *any River* or Rivers, leading "from one of the Provinces aforeſaid to the other, without the Leave of the Proprietor of the Province to whom the ſaid Bay doth belong."———Proved by *Paris*, and is the Exhibit, *Par.* N° 6.

April That Copy of Mr. *Senex*'s written Opinion of the Articles which he delivered to the Plaintiffs, *viz.*

The Diviſion, as deſcribed in the Articles. That there ſhall be drawn, ſo much of a Circle as is neceſſary, *round* Newcaſtle *as a Center*, *at the Diſtance of* 12 Engliſh *Statute Miles*——That there ſhall be a true Eaſt and Weſt Line drawn, 'twixt Cape *Hinlopen* and the *Cheſopeak* Bay: And that, from the middle of *that* Line, there ſhall be drawn a Right Line, Northwards, ſo as to become a Tangent Line, on the Weſtern Side, to the *above* Circle, *deſcribed at* 12 *Miles Diſtance from* Newcaſtle——That, at the Diſtance of 15 *Engliſh* Miles from the moſt Southern Part of *Philadelphia*, there ſhall be drawn Weſtwards a Parallel, or due Eaſt and Weſt Line, whoſe Diſtance, Weſtwards, is to be determined

determined afterward.——That, from the Point of Contact of the afore deſcribed Tangent Line with the Circle, there ſhall be drawn a Meridian, or due North and South-Line, ſo far as till it touches the ſaid Parallel.——That thoſe Lines, ſo drawn, ſhall be the Boundaries 'twixt *Penſilvania* and *Maryland*.——All to the Northwards and Eaſtwards *Penſilvania*.——All to the Southward and Weſtward *Maryland*.——This Diviſion of the Countries in diſpute, betwixt the Lord *Baltimore*, &c. as deſcribed in the *Articles of Agreement*, &c. Seems to be much more convenient and practicable, than *any* Diviſion that can be made, by affixing the *Longitude* and *Latitude* of ſuch Bounds —Becauſe, the Longitudes and Latitudes of Places are with *great Difficulty* made ſufficiently exact, to determine the true Place of ſuch Boundaries, within leſs than a Mile or two Miles: Whereas, *this* Method is eaſily practicable, and determines it to what Exactneſs is required. Moreover, in caſe any Diſpute at any time ariſes, it may ſoon be adjuſted, by any ſkilful Surveyor, to the Satisfaction of each Party.——*John Senex*.

This Exhibit is ſpoke to by *Paris*, and is proved to be Mr. *Senex*'s Hand (who is dead) by *Mary Senex* his Widow, and by *Thomas Hutchinſon* and *Thomas Smith*, who were his Servants.——And is the Exhibit, *Par.* N° 5.

This Man, of my Lord *Baltimore*'s own chuſeing, read and explained the Draught of the Articles, that the Circle was to be at 12 Miles *Diſtance from* Newcaſtle, and alſo ſhews that he underſtood *Newcaſtle* itſelf, *as a Center*.

1732. *April* The Copy of Lord *Baltimore*'s *Map*, as engraved by Mr. *Senex* (who he choſe to do it) or his Servants.——Printed Map proved by *Hutchinſon* and *Smith*, being the Exhibit Sen. N° 1.

May 10. Copy at full length of the Articles of Agreement executed between the Parties, *viz.*

ARTICLES of Agreement indented, had, made, and concluded upon, this tenth Day of *May*, in the Fifth Year of the Reign of our Sovereign Lord *George* the Second, by the Grace of God of *Great Britain*, *France* and *Ireland*, King, Defender of the Faith, &c. *Annoque Domini* 1732, between the Right Honourable *Charles* Lord-Baron of *Baltimore* in the Kingdom of *Ireland*, true and abſolute Lord and Proprietary of the Provinces of *Maryland* and *Avalon*, &c. of the one Part, and *John Penn*, *Thomas Penn*, and *Richard Penn* Eſqrs. Sons and Deviſees under the Will of *William Penn* Eſq; the Elder, their late Father, true and abſolute Proprietaries of the Province of *Penſilvania*, &c. of the other Part, in Manner and Form following; that is to ſay,

Whereas his late Majeſty King *Charles* the Firſt, by his Royal Charter or Letters Patent under the Great Seal of *England*, bearing Date at *Weſtminſter* the twentieth Day of *June*, in the eighth Year of his Reign, did give, grant, and confirm unto *Cecilius*, then Baron of *Baltimore*, (the Great Grandfather of the ſaid *Charles* Lord *Baltimore*) and to his Heirs and Aſſigns, All that *Part of a Peninſula* lying in the Parts of *America*, between the *Ocean* on the Eaſt, and the Bay of *Cheſopeake* on the Weſt, and divided from the other Part thereof by a Right Line drawn from the Promontory or Cape of Land called *Watkin*'s *Point*, (ſcituate in the aforeſaid Bay near the River of *Wighco*) on the Weſt, unto the main Ocean on the Eaſt; and, between that Bound on the South, *unto that Part of Delaware Bay* on the North, which lieth under the fortieth Degree of Northerly Latitude from the Equinoctial, where *New England* ends; And All that Tract of Land, between the Bounds aforeſaid; that is to ſay, paſſing from the aforeſaid Bay called *Delaware Bay*, in a Right Line, by the Degree aforeſaid, unto the true Meridian of the firſt Fountain of the River *Pattowmeck*, and from thence trending toward the South unto the farther Bank of the aforeſaid River, and, following the Weſt and South Side thereof, unto a certain Place called *Cinquack*, ſcituate near the Mouth of the ſaid River, where it falls into the Bay of *Cheſopeake*, and from thence, by a ſtraight Line, unto the aforeſaid Promontory and Place called *Watkin's Point* (except, as therein is excepted:) And his ſaid late Majeſty did thereby alſo grant and confirm unto the ſaid then Lord *Baltimore*, his Heirs and Aſſigns, all Iſlands and Ilets within the Limits aforeſaid, and all and ſingular the Iſlands and Ilets which were or ſhould be in the *Ocean*, within ten Leagues from the *Eaſtern Shore* of the ſaid Country towards the Eaſt, with all and ſingular Ports, Harbours, Bays, Rivers and Inlets belonging unto the Country or Iſlands aforeſaid: And all the Soil, Lands, Fields, Woods, Mountains, Fenns, Lakes, Rivers, Bays and Inlets ſcituate or being within the Bounds and Limits aforeſaid: And moreover, all Veins, Mines and Quarries, as well diſcovered as not diſcovered, of Gold, Silver, Gemms and precious Stones, and all other Mines whatſoever of Stones, Metals, or of any other Thing or Matter whatſoever, found, or to be found, within the Country, Iſles, and Limits aforeſaid, reſerving as therein is reſerved; together with divers ample Rights, Juriſdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, Royal Rights and Franchiſes, of what kind ſoever, more at large ſet forth in the ſaid Letters Patent. And the ſaid then Lord *Baltimore*, his Heirs and Aſſigns, his ſaid late Majeſty did thereby for himſelf, his Heirs and Succeſſors, make, create, and conſtitute, the true and abſolute Lords and Proprietaries of the Country aforeſaid, and of all other the Premiſſes (except as before excepted) to have, hold, poſſeſs and enjoy the ſaid Country, Iſles, Ilets, and other the Premiſſes, unto the ſaid then Lord *Baltimore*, his Heirs and Aſſigns, to the ſole and proper Uſe and Behoof of him the ſaid then Lord *Baltimore*, his Heirs and Aſſigns for ever; as by the ſaid Charter, relation being thereunto had, may more fully and at large appear.

And whereas his late Majeſty King *Charles* the Second, by his Royal Charter or Letters Patent under the Great Seal of *England*, bearing Date at *Weſtminſter* the fourth Day of *March*, in the thirty-third Year of his Reign, for the Conſiderations therein mentioned, did give and grant unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns, ALL that Tract or Part of Land in *America*, with all the Iſlands therein contained, as the ſame was bounded, on the Eaſt, by *Delaware* River, from twelve Miles *diſtance* Northwards of *New-Caſtle* Town, unto the forty-third Degree of northern Latitude, if the ſaid River did extend ſo far Northward; but, if the ſaid River ſhould not extend ſo far Northward, then, by the ſaid River ſo far as it did extend; and, from the Head of the ſaid River, the Eaſtern Bounds were to be determined by a Meridian Line, to be drawn from the Head of the ſaid River unto the ſaid forty-third Degree: The ſaid Lands to extend Weſtward five Degrees in Longitude, to be computed from the ſaid Eaſtern Bounds: And the ſaid Land to be bounded, on the North, by the beginning of the forty-third Degree of northern Latitude, and, on the South, by a Circle drawn at twelve Miles *diſtance from New-Caſtle*, Northwards and Weſtwards, unto the *beginning* of the fortieth Degree of northern Latitude, and then, by a ſtrait Line, Weſtward, to the Limit of Longitude above-mentioned. And his ſaid late Majeſty King *Charles* the Second did thereby alſo give and grant unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns, the free and undiſturbed Uſe and Continuance in, and Paſſage into and out of all and ſingular Ports, Harbours, Bays, Waters, Rivers, Iſles and Inlets, belonging unto or leading to or from the Country or Iſlands aforeſaid; and all the Soil, Lands, Fields, Woods, Underwoods, Mountains, Hills, Fenns, Iſles, Lakes, Rivers, Waters, Rivulets, Bays and Inlets, ſcituate or being within, or belonging unto the Limits and Bounds aforeſaid; and alſo all Veins, Mines, and Quarries, as well diſcovered as not diſcovered, of Gold, Silver, Gemms and precious Stones, and all other whatſoever, of Stones, Metals, or any other Thing or Matter whatſoever, found or to be found within the Country, Iſles, and Limits aforeſaid; and him the ſaid *William Penn* the Elder, his Heirs and Aſſigns, his ſaid late Majeſty King *Charles* the Second did, by the ſaid Royal Charter, for himſelf, his Heirs and Succeſſors, make, create, and conſtitute, the true and abſolute Proprietaries of the Country aforeſaid, and of all other the Premiſſes, TO HAVE, hold, poſſeſs, and enjoy the ſaid Tract of Land, Country, Iſles, Inlets, and other the Premiſſes, unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns, to the only proper Uſe and Behoof of the ſaid *William Penn* the Elder, his Heirs and Aſſigns for ever; as by the ſaid laſt recited Charter or Letters Patent (amongſt divers other Matters and Things therein contained) relation being thereunto had, may more fully and at large appear.

And whereas by Indenture of Bargain and Sale enrolled, bearing Date on or about the four and twentieth Day of *Auguſt*, in the Year of our Lord *One Thouſand Six Hundred Eighty and Two*, and made or mentioned to be made, between his Royal Highneſs *James*, then Duke of *York*, (afterwards *James* the Second, King of *England*) of the one Part, and the ſaid *William Penn* the Elder of the other Part, his ſaid Royal Highneſs (for the Conſiderations in the ſaid Indenture mentioned) did bargain, ſell, enfeoff, and confirm unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns for ever, ALL that *the Town* of *New-Caſtle*, otherwiſe called *Delaware*, and all that *Tract of Land* lying *within the Compaſs* or Circle *of twelve Miles about the ſame*, ſcituate, lying, and being upon the River *Delaware* in *America*, and all Iſlands in the ſaid River *Delaware*, and the ſaid River and Soil thereof, lying North of the Southermoſt Part of the ſaid Circle of twelve Miles about the ſaid Town, together with all Rents, Services, Royalties, Franchiſes, Duties, Juriſdictions, Liberties and Privileges thereunto belonging; and all the Eſtate, Right, Title, Intereſt, Powers, Property, Claim and Demand whatſoever, of his ſaid Royal Highneſs, in or to the ſame, To hold to the ſaid *William Penn* the Elder, his Heirs and Aſſigns, to the only Uſe of the ſaid *William Penn* the Elder, his Heirs and Aſſigns for ever.

And whereas by another Indenture of Bargain and Sale, or Feoffment, bearing Date on or about the ſaid four and twentieth Day of *Auguſt*, in the ſaid Year *One Thouſand Six Hundred Eighty and Two*, and made, or mentioned to be made between his ſaid Royal Highneſs of the one Part, and the ſaid *William Penn* the Elder of the other Part, his ſaid Royal Highneſs for the Conſiderations in the ſaid laſt Indenture mentioned, did bargain, ſell, enfeoff, and confirm unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns, all that Tract of Land upon *Delaware* River and Bay, *beginning twelve Miles South from the Town* of *New-Caſtle*, otherwiſe called *Delaware*, and extending South to the *Whore Kilns*, otherwiſe called *Capin Lopen*, (which ſaid laſt mentioned Tract of Land hath been divided into two Counties, and called by the Names of *Kent* and *Suſſex*; and theſe two Tracts, together with the Town of *New-Caſtle*, are, and have been, commonly called by the Name of the three lower Counties of *New-Caſtle*, *Kent* and *Suſſex*) together with the Soil, Fields, Woods, Underwoods, Mountains, Hills, Fenns, Iſles, Lakes, Rivers, Rivulets, Bays and Inlets, ſcituate in or belonging unto the Limits and Bounds aforeſaid; together with all ſorts of Minerals, and all the Eſtate, Intereſt, Royalties, Franchiſes, Powers, Privileges and Immunities whatſoever, of his ſaid Royal Highneſs thereunto, To hold unto the ſaid *William Penn* the Elder, his Heirs and Aſſigns, to the only Uſe and Behoof of the ſaid *William Penn*, his Heirs and Aſſigns for ever; as by the ſaid two ſeveral Indentures of Bargain and Sale or Feoffment, relation being unto them reſpectively had, may more fully appear.

And whereas, ſoon after the granting the ſaid Charter and Deeds of Bargain and Sale or Feoffment unto the ſaid *William Penn* the Elder, ſeveral Diſputes and Differences aroſe between the then Lord *Baltimore*, (Grandfather of the ſaid *Charles* Lord *Baltimore*) and the ſaid *William Penn* the Elder, touching the reſpective Bounds and Limits of the ſaid Provinces of *Maryland* and *Penſilvania*, and between the ſaid Province of *Maryland* and the ſaid three lower Counties of *New-Caſtle*, *Kent* and *Suſſex*, in regard that the Obſervations made by Mathematicians and other ſkilful Perſons from time to time, in order to the fixing the Place of the fortieth Degree of northerly Latitude (mentioned and referred to by both the ſaid Charters of *Maryland* and *Penſilvania*) greatly varied and differed from each other; and alſo, in regard that the ſaid Tracts of Land, ſince called the three lower Counties of *New-Caſtle*, *Kent* and *Suſſex*, which were granted to the ſaid *William Penn* the Elder, by the ſaid Deeds of Bargain and Sale or Feoffment (or at leaſt ſome Parts thereof) were comprized within the Bounds and Limits which had been mentioned in the ſaid Charter of *Maryland*. And whereas, notwithſtanding ſeveral Treaties and Endeavours for ſettling the ſaid Diſputes and Differences, divers Difficulties have ariſen, and many Perſons have ſeated themſelves upon great Parcels of the Lands in diſpute, without Authority from either of the Proprietors, and without paying the uſual Fines or Quit-rents, or conforming themſelves to the Government and Eſtabliſhment ſettled in any of the ſaid Provinces or Counties: But, for the putting a final and friendly End and Accommodation to the ſaid Diſputes and Differences, the Parties hereunto have come to the following Agreement touching the ſame.

Now therefore theſe preſent Articles witneſs, That it is hereby mutually and reciprocally covenanted, promiſed, declared and agreed by each and every one of the ſaid Parties to theſe Preſents, for himſelf, and his Heirs, Executors and Adminiſtrators, to and with all and every other of the ſame Parties to theſe Preſents, and their ſeveral and reſpective Heirs, Executors and Adminiſtrators, in Manner and Form following; that is to ſay,

I. That *the Draught or Plan* printed in the Margin upon this Skin of Parchment, which contains a Map of the Peninſula herein before-mentioned, and alſo of the Tracts of Ground wherein the ſaid Province of *Maryland*, (or Part thereof) the ſaid *Three Lower Counties*, Part of the ſaid Province of *Penſilvania*, and Part of *Virginia* do lie, is a true Copy of thoſe which had been ſent over from *America*, to the preſent Parties hereto, *by their reſpective Agents* in thoſe Parts, *for the Aſſiſtance* and Guidance of the ſaid Parties, *in the ſettling the ſaid Diſputes*, and by which this preſent Agreement is to be explained and underſtood.

II. That there ſhall be the ſaid Circle, mentioned in the ſaid Charter for *Penſilvania*, *and* Deed of Bargain and Sale or Feoffment of *New-Caſtle*, (or ſo much thereof as is requiſite) drawn and marked out *at the twelve Miles diſtance from the Town of* New-Caſtle; *which twelve Miles ſhall be twelve* Engliſh *Statute Miles*.

III. That a due Eaſt and Weſt Line ſhall be drawn acroſs the ſaid Peninſula, (or acroſs ſo much of it as ſhall be requiſite) ſuch Eaſt and Weſt Line to begin, on the Eaſt Part, at the Place in the ſaid Draught or Map called *Cape Hinlopen*, which lies South of *Cape Cornelius*, upon the eaſtern Side of the ſaid Peninſula, towards the main Ocean, and, at the *Point* of the ſaid Cape; and to run toward the weſtern Side of the ſaid Peninſula, which lies upon the *Cheſopeake* Bay; but to ſtop, in the exact Middle of that Part of the ſame Peninſula, when ſo running a due Eaſt and Weſt Courſe.

IV. That, from the Weſtern Point or End of the ſaid Eaſt and Weſt Line (which Weſtern Point or End ſhall be juſt half way acroſs the ſaid Peninſula) a ſtrait Line ſhall run, Northward, up the ſaid Peninſula (and above the ſaid Peninſula if it require it) till it ſhall ſo touch the Weſtern Part of the Periphery of the ſaid Circle, as to make a Tangent thereto: The ſaid ſtrait Line, as at preſent apprehended, will run pretty near South and North, but (however it may bear on the Compaſs) ſuch ſtrait Line ſhall be run Northward up the ſaid Peninſula (and above the ſaid Peninſula if it require it) and ſhall begin at and from the Weſtern Point or End of the aforeſaid Eaſt and Weſt Line, and ſhall run until it touches, and makes a Tangent to, the Weſtern Part of the ſaid Periphery of the ſaid Circle, and, there, the ſaid ſtrait Line ſhall end.

V. That, at the Northern Point or End of the ſaid ſtrait Line, a Line ſhall begin, and ſhall, from thence, run due North *above* the ſaid Peninſula, but ſo far only until it comes into the ſame Latitude, as fifteen *Engliſh* Statute Miles due South of the moſt ſouthern Part of the City of *Philadelphia*.

VI. That a due Eaſt and Weſt Line ſhall be run in Manner following; it ſhall begin at the northern Point or End of the ſaid due South and North Line, and ſhall, from thence, run due Weſt croſs *Suſquehannah* River, to the utmoſt Weſtern Extent of the ſaid Province of *Penſilvania*, or ſo far in Part thereof as ſhall be at preſent requiſite, in regard that, as the ſame is to be a due Eaſt and Weſt Line, the beginning Part thereof may be ſufficient to continue the ſame by, when further Occaſion ſhall require, and when the Lands Weſtward in the ſaid Provinces of *Maryland* and *Penſilvania* ſhall be better ſettled, and that it would occaſion a very great Expence, and likewiſe be at preſent needleſs, to run the ſame to the utmoſt Extent Weſtward of the ſaid Province of *Penſilvania*; however, the ſame ſhall (at preſent) be run croſs *Suſquehannah* River, and about five and twenty *Engliſh* Statute Miles further on the Weſtern Side of the ſaid River.

VII. That the Part of a Circle, at preſent drawn with *Red Ink* upon the ſaid Draught or Plan, and the red Lines alſo drawn thereupon, are now drawn to ſerve as an Explanation to this preſent Agreement, but not with exact Certainty, in regard the ſaid Draughts or Plans, ſo ſent over to the Parties aforeſaid, have neither Scale or Compaſs to them.

VIII.

VIII. That the first above-mentioned due East and West Line to run from *Cape Hinlopen* to the Middle of the Peninsula, and the said strait Line to run from the Westward Point thereof Northwards up the said Peninsula (and above the said Peninsula, if it require it) till it touches or makes a Tangent to the Western Part of the Periphery of the said twelve Miles Circle; and the said due South and North Line to run from such Tangent till it meet with the Upper or more Northern East and West Line: And the said upper East and West Line to begin from the Northern Point or End of the said South and North Line, and to run due Westward at present cross *Susquehannah* River, and Five and Twenty *English* Statute Miles at least on the Western Side of the said River, and to be fifteen *English* Statute Miles South of the Latitude of the most Southern Part of the said City of *Philadelphia*, are and shall be, and shall at all Times for ever hereafter be allowed and esteemed to be, the true and exact Limits and Bounds between the said Province of *Maryland*, and the said Three Lower Counties of *New-Castle*, *Kent*, and *Sussex*, and between the said Provinces of *Maryland* and *Pensilvania*; excepting only, that in case the said North Line from the Tangent of the Circle of *New-Castle* shall break in upon the said Circle, in such Case, so much of the said Circle as shall be cut off by the said Line, shall belong to and be Part of the County of *New-Castle*.

Provided always, and it is hereby mutually covenanted, concluded, and agreed, by and between the Parties to these Presents, that in case it should happen in the Running or Setting-out the Lines or Boundaries hereby agreed upon, that the Head or Heads of any River or Rivers leading either into the Bay of *Chesopeake*, or into the Bay of *Delaware*, or unto the Sea, shall remain on one Side the Lines and Boundaries hereby agreed to be run or set out, and that the lower Part of such River or Rivers shall remain within or run thro' the other Province or Counties, and on the other Side of such Lines and Boundaries; then, and in such Case, this present Agreement, or any Matter or Thing herein contained, is not intended, and shall not in any wise be construed or extended to give or yield to the People or Inhabitants of the Province or Counties within whose Limits the Heads of any such River or Rivers shall according to this present Agreement fall or remain, any Sort of Right or Title to carry on any Commerce into the said Bays of *Delaware* or *Chesopeake*, or either of them, or into the Sea thro' the lower Parts of such River or Rivers, which may run thro' the Territory or Limits of any other Province or Counties, without the Leave or Licence of the respective Proprietor or Proprietors of the Province or Counties thro' whose Territories such lower Parts of the said River or Rivers shall run, first duly had and obtained; this Agreement, or any thing herein contained, to the contrary thereof in any wise notwithstanding.

This Clause is translated verbatim *into the very Commissions, nevertheless, the first Objection made by the* Maryland *Commissioners was, for that some* other *different Persons had not also joined in granting our Commission.*

IX. That the said *Charles* Lord *Baltimore*, and his Heirs and Assigns *on his part*, and the said *John Penn*, *Thomas Penn*, and *Richard Penn*, and their several and respective Heirs and Assigns *on their parts*, shall and will, by fit and proper Powers and Instruments, within two Calendar Months from the Day of the Date of these Presents, *authorize* and appoint a sufficient Number of discreet and proper Persons, not more than seven on each side, to be their respective *Commissioners*, with full Power to the said seven Persons, or any three or more of them, for the actual running, marking, and laying out, the said Part of a Circle, and the said before-mentioned Lines: which said Commissioners shall give due and proper Notice to each other, and shall fix and agree upon a Time or Times to begin and proceed in the running, marking, and laying out the same; and the same shall be begun, at the farthest, some time in the Month of *October* next, and shall be proceeded in with all *Fairness*, *Candour*, and *Dispatch* that may reasonably be. And the said Lines shall be marked out by visible Stones, Posts, Trees, Pillars, Buildings, Land-marks, or other certain Boundaries which may remain and continue; such Boundaries to be marked, on one side, with the Arms of the said *Charles* Lord *Baltimore*, and, on the other side, with the Arms of the Proprietors of *Pensilvania*. And such Lines shall be compleatly so run, mark'd, and laid out, (as far as by this Agreement is intended) on or before the twenty-fifth Day of *December*, *One thousand seven hundred and thirty-three*: and, when so done, a true and exact Plan and Survey thereof, with the best and most exact and certain Descriptions that can possibly be given of the same, shall be made up, and sign'd, and seal'd, by the said Commissioners on both sides, and by their Principals, and shall be entred in all the publick Offices, in the said several Provinces and Counties: And moreover it shall be recommended by the respective Proprietors to the Assemblies of the said several Provinces and Counties, forthwith to pass Acts of Legislature for the Visitation upon certain fix'd Days, to be agreed on on both sides (at least once in every three Years) and for the continual Reparation of the said Boundaries and Bound-marks, that no Disputes may arise hereafter concerning the same.

Provided always, and it is hereby agreed, that in Case a sufficient Quorum of the Commissioners to be named on either side, shall not, from time to time, according to the Appointments and Adjournments to be made for that purpose, attend to proceed in the marking and running out the Lines and Bounds aforesaid, *for want whereof the same cannot be done within the Time before limited*, *then*, this present Agreement, and every Article and Thing herein contained, shall cease, determine, and be void; and, *then*, and in *such* Case, the Party or Parties, whose Commissioners shall make such Default, his or their Heirs, Executors, or Administrators, shall and will forfeit and pay, to the other Party or Parties, whose Commissioners shall attend, his or their Heirs, Executors or Administators, upon Demand, the Sum of *Five Thousand Pounds* of lawful Money of *Great-Britain*.

X. That the said *Charles* Lord *Baltimore*, for himself and his Heirs, doth by these Presents for ever renounce, release, and quit claim unto the said *John Penn*, *Thomas Penn*, and *Richard Penn*, and their Heirs, all Rights, Titles, Interest, Powers, Prerogatives, Claims, Demands, and Pretensions, to the said Province of *Pensilvania*, and to the said Three lower Counties of *Newcastle*, *Kent*, and *Sussex*, to be so bounded as aforesaid, (Part at least of the same Three lower Counties being now known to be comprized within the Bounds mentioned in the said Charter of *Maryland*) and shall also, at the Request and Cost in the Law of the said *John Penn*, *Thomas Penn*, and *Richard Penn*, and their Heirs, grant, convey, and assure, in the most effectual Manner, the said Province of *Pensilvania*, and the said *Three Lower Counties* to be bounded as aforesaid, and all his and their Right, Title, Interest, Powers, Claims, and Demands, in and to the said Province of *Pensilvania*, and the said *Three Lower Counties* to be so bounded as aforesaid, and every Part of the same, free of all Incumbrances by the said *Cecilius* Baron of *Baltimore*, Great Grandfather of the said *Charles* Lord *Baltimore*, *Charles* Grandfather of the said *Charles* Lord *Baltimore*, *Benedict* Father of the said *Charles* Lord *Baltimore*, or by him the said *Charles* Lord *Baltimore* Party hereto, his Heirs or Assigns, excepting such Grants and Agreements to Planters as herein after mentioned, unto the said *John Penn*, *Thomas Penn*, and *Richard Penn*, and their Heirs; TO HAVE AND TO HOLD unto the said *John Penn*, *Thomas Penn*, and *Richard Penn*, and their Heirs, to the only Use and Behoof of them and their Heirs for ever, in such Manner as by them the said *John Penn*, *Thomas Penn*, and *Richard Penn*, or their Heirs, or their Council learned in the Law, shall be reasonably devised, advised, and required. AND on the other Hand, the said *John Penn*, *Thomas Penn*, and *Richard Penn*, for themselves and their Heirs, do by these Presents for ever renounce and quit claim unto the said *Charles* Lord *Baltimore* and his Heirs, all Rights, Titles, Interest, Powers, Prerogatives, Claims, Demands, and Pretensions to the said Province of *Maryland*, to be so bounded as aforesaid, (Part whereof when so bounded being apprehended to be comprized within the Bounds mentioned in the said Charter for *Pensilvania*;) and shall also at the Request and Cost in the Law of the said *Charles* Lord *Baltimore* and his Heirs, grant, convey, and assure, in the most effectual Manner, the said Province of *Maryland*, to be so bounded as aforesaid, and all their and every of their Right, Title, Interest, Powers, Claims, and Demands, in and to the said Province of *Maryland*, to be so bounded as aforesaid, and every Part of the same, (free of all Incumbrances by the said *William Penn* the Grandfather, *William Penn* the Father, *Springett Penn* Esq; deceased, *William Penn* the Son, *John Penn*, *Thomas Penn*, and *Richard Penn*, their Heirs or Assigns) excepting such Grants or Agreements to Planters as herein after mentioned, unto the said *Charles* Lord *Baltimore* and his Heirs, to have and to hold unto the said *Charles* Lord *Baltimore* and his Heirs, to the only Use and Behoof of him and his Heirs for ever, in such Manner as by him or them, or his or their Council learned in the Law, shall be reasonably devised, advised, and required.

XI. And whereas during the Disputes which have hitherto subsisted, and now are accommodated between the Parties to these Presents, divers Persons under Grants, Patents, Leases, Warrants, Licences and Agreements, made and granted from and agreed with the said *Charles* Lord *Baltimore* and his Ancestors, before the fifteenth Day of *May*, *One thousand seven hundred twenty and four*, may have cleared, occupied and possessed, several Parcels of Lands within the Limits and Bounds hereby yielded and agreed upon for the said Province of *Pensilvania*, and for the said *Three Lower Counties*: And in like manner other Persons under Grants, Patents, Leases, Warrants, Licences and Agreements made and granted from, and agreed with the said *John Penn*, *Thomas Penn*, and *Richard Penn*, or their Ancestors, before the said fifteenth Day of *May*, *One thousand seven hundred twenty and four*, may have cleared, occupied and possessed several Parcels of Lands within the Limits and Bounds hereby yielded and agreed upon for the said Province of *Maryland*, and it may be proper to quiet such Occupiers and Possessors in their respective Possessions (which might otherwise be disturbed by this present Agreement of the Proprietors, under some Restrictions;) It is therefore mutually agreed, that in order to the Information of the Parties to these Presents, touching the Premisses, each of the said Proprietors shall have full and free Liberty to take Copies at their respective Costs and Charges, of all Grants, Patents, Leases, Warrants, Licences and Agreements, which at any time before the said fifteenth Day of *May*, *One thousand seven hundred twenty and four*, have been made or granted by the respective Proprietors or their Ancestors, and under which any of the said Occupiers do hold or claim any such Parcels of Land: And in order to quiet and settle such Occupiers, every of them shall and may, upon Request and Payment of the accustomed Fees, in such Cases only, have new Grants or Patents from the respective Proprietors within whose Territory or Limits their Lands, by virtue of, or according to this present Agreement, shall lie, for the like Estate, Term, and Interest, as mentioned in their original Grants, Warrants, Leases, Licences or Agreements, upon condition that the said Occupiers respectively do first attorn, and become Tenants to their respective Proprietors within whose Territory or Limits their Lands now lie, by virtue of, or according to this present Agreement, and do submit themselves in all Things to the Government thereof, and do pay to their new Proprietor or Proprietors (unless it shall be dispensed with by him or them) all such Fines, Rents and Arrearages of Rents and Duties, as by their original Grants, Licences or Agreements, were to have been payed to their former Grantor or Proprietor, and which have not been really and *bona fide* payed to or to the Use of such their former Proprietor; and for the time to come, such Occupiers shall be put upon the like Foot and Condition with the rest of the Occupiers and Tenants who hold Lands in such Parts of the said respective Provinces and Counties as have never been in Contest; and such Occupiers and Tenants claiming originally under another Proprietor, as aforesaid, shall hold their Lands and have Patents thereof granted them by their new Proprietor, subject to the like Fines, Rents, Quit-Rents, Duties, Services and Reservations, as the other Landholders are, and have been generally subject to in the respective Provinces and Counties to which they shall belong. Provided always, that in Cases where any Persons during the Disputes which have subsisted between the said Proprietors have taken double Titles; that is to say, from both the said Proprietors or their Commissioners or Officers, under which they have sheltered themselves by turns against each of the said Proprietors, and also in Cases where any Persons during the said Disputes, have of their own authority seated themselves down upon any Parcels of Lands, without Licence or Authority in Writing from either of the said Proprietors, such Persons in respect of such Lands, are by no means to be included in this present Article, but are (however) to be treated with Moderation, and with some Regard; and the more so, in case they have heretofore actually paid the usual Quit-Rents and Services to either of the said Proprietors, and provided they bring in, surrender or yield up their former Grant, Licence, Warrant, Lease or Agreement, and submit to hold only under the proper Lord or Proprietor as the Case may be.

XII. That in case the Parties hereto can conclude upon any further Clauses in favour of the Occupiers of any Lands within the Bounds heretofore disputed, but by these Presents fixed and determined; the same shall be contained in a subsequent Agreement between them.

Lastly, That all the Parties hereto, and their Representatives, shall at all times hereafter use all friendly Means and Offices to the utmost of their power, to assist and support this present Agreement, and the several and respective Rights, Interests and Pretensions of the Parties, by virtue hereof.

In Witness, *&c.*

The foregoing Articles are proved to be executed by all Parties, by Mr. *Taylor* and by *Paris*. And are Exhibits *Art.*——And *Par.* N° 7.

Note, Upon some of the six several Parts of those Articles there was an *Endorsement* executed (of the same Date with the Articles) by *William Penn*, *Letitia Aubrey* and *Charles Fell* and *Gulielma Maria* his Wife; whereby all those Persons assented to those Articles, and promised not to hinder or obstruct the said Agreement, or the due Execution thereof, in any manner or wise.——Endorsement on the said Articles, *Par.* N° 7. and proved by *Paris*.

1732, *May* 12. The *Draught of the Commission* prepared for the Plaintiffs to authorise *their* Commissioners to carry the Articles into Execution, which the Defendant and his Sollicitor approved; with Mr. *Sharpe*'s Endorsement thereon of the Names which he would have inserted for the *Defendant's* Commissioners.——This is proved by *Paris*, and is Exhibit *Par.* N° 8.

Same Day. *The Original Commission* executed by the Plaintiffs, authorising their Commissioners to carry the Agreement into Execution, which recites the Agreement most minutely.—— The Execution of this Commission by the Plaintiffs is proved by Mr. *Taylor*, and this Exhibit is in Parchment markt Com.

And thus the written Articles of Agreement were executed.

Chap. XIV. From the Time of sealing the Articles here in *London* in *May* 1732, down to the End of the Year 1733.

Aug. 26. AN *Order of Council*, which does not directly make any Proof in the Matter in question, otherwise than as a *very strong Precedent*, (founded upon the *present Lord Chancellor's Opinion*) that the Crown will not disturb *ancient Possessions*, or take Advantage of *defective Titles* in *America*. The Order altogether is long, but the Case was, the Crown had ordered Mr. *Dunbar*, the Surveyor General, to endeavour to form a Colony or Settlement in a Part of *New England*, which seemed to be unimproved, adjacent to *Nova Scotia*. Hereupon, *Samuel Waldo*, *Elisha Cook* and Sir *Biby Lake*, and others, petitioned the King, and set up a *Title* thereto, and *some* Endeavour that had been used *to settle* the same, and some *Expences* layd out therein, but that frequent *Indian* Wars had disturbed them; and it came out, that the *French* had *conquered* that Territory in 1696, and that in the Year 1710. it was *reconquered* under General *Nicholson*; and was afterwards ceded by *France*, to *Great Britain*, by the Treaty of *Utrecht*; and the Matter being referred to the then Attorney and Sollicitor General (*Yorke* and *Talbot*) They reported, that some of the Petitioners had Titles under the Council of *Plymouth*, and others from *Indians*, pretending to be Owners of the Land, under which large Sums had been laid out, in *endeavouring* to settle and improve, and tho' *interrupted* and defeated by frequent Wars and Incursions of the *Indians*, yet, *some* of their Tenants appeared to be still in Possession of *some Parts* of the said Land.——The Attorney and Sollicitor also reported, "That some Objections were made, before them, to the *Nature of the Grants and Conveyances* under which the Petitioners claimed, and *to the Manner of de-*
" *ducing down their Titles*, but they conceive that, in Questions of this kind, concerning Rights to Lands in the *West Indies*, and upon Enquiries of this Nature, the same
" Regularity and Exactness is not be expected, as in private Suits, concerning Titles to Lands in *England*; but that, in *these* Cases, the *principal* Regard ought to be had to
" the *Possession*, and the *Expences* the Parties have been at in endeavouring to *settle and cultivate* such Lands; Therefore, upon the whole Matter, they are of Opinion that the
" Petitioners, their Tenants or Agents, ought not to be disturbed in their *Possession*, or interrupted in carrying on their Settlements, in the Lands granted to them, within the
" District in question."——Thereupon the Lords of the Committee of Council also reported, " That they agreed in Opinion with his Majesty's Attorney and Sollicitor
" General

" General, (*inter alia*) That the Petitioners, their Tenants or Agents, ought not to be disturbed in their Possession, or interrupted in carrying on their Settlements, in the " Lands granted to them within the District in question." And therefore advised the King to revoke, and he accordingly, by his Order in Council of this Date, did *revoke*, the Instructions which he had before given on 27 *April* 1730, to the Governor of *Nova Scotia*, and the Surveyor General, relating to the settling the said Lands, and ordered the Surveyor General to quit the Possession of all the said Lands.——Original Order of Council under Privy Council Seal, Co. Off. N° 26.

1732, *Oct.* 7. *Bargain and Sale enrolled*, whereby *William Penn* the Grandson, conveyed his 5000 *l.* Mortgage upon *Pensilvania*, unto *Alexander Forbes*, for securing a Sum of 2500 *l.* which he borrowed of him.———The Deed proved by *Paris*.

Oct. 6. The *Minutes* of this Day's *First Meeting* of the Commissioners on both Sides at *New-Town* in *Maryland*, (as they were taken and kept by the *Pensilvania* Commissioners)
7. ——In which, after naming the Commissioners who were present, on both Sides, they go on in the like Words as that Minute set forth by the Defendant in Fol. 456. in the Schedule to his Answer; which is contained in Fol. 25 and 26. of this Brief.——This Minute is *additionally* proved by *Samuel Preston* and *James Steel*, two of our Commissioners. ———And is in the *Pensilvania* Exhibits, N° A. 1.

Oct. 30. 31. *Nov.* 1. 2. The Defendant in the Schedule to his Answer, at Fol. 460. has given us a very *short imperfect* Minute, return'd to him by his Commissioners, and as if it had passed upon the 30th of *October only*.——Whereas we have the following *full Minutes of all those* four Days, kept by *our* Commissioners, and proved by them, *viz.*

Oct. 30. Five of the Commissioners appointed by Lord *Baltimore*, and all the 7 Commissioners appointed by the Plaintiffs being met, on the 30th of *October*, at *Newcastle*, in order to proceed to mark out the Circle mentioned in the Agreement between the said Proprietors——The Lieutenant-Governor of *Maryland*, opening the Conference, declared, *They were now met to proceed to run the Circle* about *Newcastle*, mentioned in the 2d Article of the Agreement, which he read; and as, in that Article, the Circle is said to be the Circle mentioned in the Charter for *Pensilvania*, and the Deed of Feoffment from the Duke of *York*, *'twas necessary they should see that Charter and the Deed* of Feoffment. ——The Commissioners of *Pensilvania* answered that the Agreement fully recited the necessary Parts of the said Charter and Deed, That the respective Commissions from the Proprietors enjoyn'd the Commissioners to execute the several Articles agreed on, and that, as the Proprietors were mutually satisfyed with the Recitals made in the Agreement, the Commissioners could want no further Satisfaction than was contained in those Recitals.——But the Commissioners of *Maryland* insisting upon their Demand, those of *Pensilvania* condescended to send to *Philadelphia* for the Charter of *Pensilvania*, and for an Exemplification of the Deed of Feoffment from the Records of *New York*, where it was first entered, the Original being in *England*.

Oct. 31. Present the same Commissioners.——The Charter of *Pensilvania* under the Great Seal, with the Exemplification of the Duke of *York*'s Deed of Feoffment to Mr. *Penn* for the Circle about *Newcastle* being brought from *Philadelphia*, the Commissioners of *Maryland desired Copies* of the descriptive Parts of the said Charter and Deed, wherein the said Circle was mentioned.———It was answered by those of *Pensilvania*, That the said Charter and Deed, with the Agreement between the Proprietors, *being All on the Board*, the Recitals, in the Agreement, might be now compared with the others, by the Commissioners present, and, if found to agree, they could not want any *other* Satisfaction; and, being compared, they were found exactly to agree *verbatim*, allowing for the Change of Words necessary in making Recitals.——The Commissioners of *Maryland continued to insist on Copies* of the descriptive Parts, which, tho' represented to be altogether unnecessary after the Satisfaction already given them, were, notwithstanding, drawn out and delivered to them, certifyed to be true Copies of the said descriptive Parts under the Hands of two of the *Pensilvania* Commissioners.——It was then proposed that we should agree on a *Place of beginning* for running the 12 Miles distance; upon which much was sayd.——And the Commissioners of *Maryland* alledging *They must further consider it*, the Business was adjourned till 3 in the Afternoon.

The same Commissioners meeting in the Afternoon,——Those of *Maryland questioned* whether, by *their* Commission from *their* Proprietor *They* had full *Power* to run the described Circle? For, as there could be no Circle without a *Center*, that Center must be first had; but, *it* was no where directed by the Articles or Commission; and *they* conceived they had *no Power* to make one.——It was answer'd, that the Commissioners, being impower'd and required to *execute the Agreement* in that Part, they were impowered to do *all Things* necessary to the Performance of it: For that it is a known Maxim in Law that where *a Thing* is prescribed *to be done*, *the Means* are, at the same time, prescribed. That, from *Newtown*, the Commissioners had adjourned to meet at *Newcastle* the 30th of *October*, *in order to proceed to mark out the Circle*; That the Articles enjoyn'd the Business to be begun *in the Month* of *October at furthest*; That this was the *Afternoon of the last Day* of *October*, and yet, nothing was done to any Effect.——Those of *Maryland* answer'd, that every body must allow they had *enter'd on* the Business: They were now *upon* it, and they should all acknowledge, before any number of Witnesses, that they *had begun* the Business; But, *how to proceed* is the Difficulty, which appears such *to them*, as that they *must further advise* on it.——The Commissioners of *Pensilvania* declared *themselves fully impower'd*, as they conceived, to do *every thing necessary* to the full Execution of their Commission; and, to save time, the Surveyors might be sent to *measure the Town*.——The Commissioners of *Maryland* then proposed that the Company should *walk about the Town and view it*; and accordingly the Commissioners, of both Parts, adjourning till Morning, walkt out to view the Town.

Nov. 1. The Commissioners being met, The Governor of *Maryland*, in Behalf of the Gentlemen of that Province, declared that, having advised both with Lawyers and Mathematicians, on the Subject of finding a Center, *they* were fully satisfyed that, as the Center for the Circle is not directed by the Articles, or *their* Commission, *They have no Power to make one*; but that, as his Lordship's Arrival in *Maryland* is every Day expected, *they* thought it proper for *them* to apply *to his Lordship* at his coming; and if *he* would direct them to find a Center, *they* would readily obey; To which it was answered that the Proprietors, on both Parts, had absolutely concluded an Agreement, in full and clear Terms; That they had given full Powers to their Commissioners on both Sides, to execute that Agreement; And, the better to enable them, a printed Draft of the Work was annexed in the Margin, both of the Articles and Commissions, which was to be explanative and directive in case of any Difficulty; That the Town of *Newcastle* was fairly marked out, in that Draft, with a Central Point in the Middle of it, on which the Circle in the Draft was drawn; That it was easy to find this Center, as it is there pointed out; Another Objection also that had been made, from the Suggestion of some Mathematician, that it is impracticable to draw any true Circle *of such an Extent*, in the *Woods* or *Fields*, being largely spoke to, the Governor of *Maryland* continued to insist on it, that *they had no Power* to find any Center, for that, if they fix on any, it may, as probably, be wrong as right, and, if wrong, it may injure Men in their Property, which they would avoid; Therefore, *they* must first take the further Directions of *their* Lord Proprietor, and, for that End, *desire* we may adjourn for some time, that they may have the Opportunity. The Commissioners of *Maryland* appearing fixed in this, the Consideration of it was referred to the Afternoon.

The Commissioners meeting in the Afternoon, those of *Pensilvania* said, that as they met here, fully prepared and resolved, to proceed to Business, the Proposal of an Adjournment was unexpected; and first they desired to know, to what Time those of *Maryland* desired the Adjournment should be made? Which, when considered, might the better enable them to judge whether they could agree to it; the Gentlemen of *Maryland* said, that, unless it were first agreed to adjourn, it would be to no Purpose to propose a Time; and insisted, that those of *Pensilvania* should first agree to an Adjournment; which they declining, and much being spoken to it, It was insisted, on the Part of *Pensilvania*, that *Minutes* should be taken of what has past; which being also largely spoke to, and those of *Maryland persisting* in it, that *all Minutes are unnecessary*, further than to enter the *Meetings* and *Adjournments*; that each Side might keep what Minutes they pleased: The Commissioners of *Pensilvania* insisted, that it was absolutely necessary, in the Execution of all Commissions, to keep some Minutes, as a Register of the Commissioners Proceedings, otherwise, how shall it appear, what has been done in them? That they take this to be absolutely necessary in the present Case, and must appear so, in the Eyes of all Men of Understanding, acquainted with such Affairs; but those of *Maryland declined* to join in such Minutes, and then, they proposed the first of *February*, for the Day of Adjournment to meet at *Newcastle*. The Commissioners of *Pensilvania* took till Morning to give their Answer, which is in these Words;———Gentlemen, You cannot but be sensible, that after the Preparations made to proceed on the Execution of our Commissions, it cannot but be a Disappointment to us, to have an Adjournment proposed to us; for, as the whole Articles clearly shewed the Proprietors on both Sides were fully resolved, in the most amicable manner, to have their mutual Boundaries fixed, for which End, they had appointed us their Commissioners to run the Lines they had agreed on, and it is evident to us, and we are fully satisfied, that *we have full Power* to execute them, which it is required should be done with all the Fairness, Candour and Dispatch, that may be reasonable; but as *the Reason* assigned for the Adjournment is, the general Expectation of the Arrival of the Lord *Baltimore* in some short Time in *Maryland*, whom *you* are desirous further to consult, we have so very great *Regard* for that worthy Nobleman, and so great an Esteem of his *Honour*, that, *on that Consideration*, *alone*, we agree to the Adjournment proposed; *viz.* the first Day of *February* ensuing, Then to meet at the Town of *Newcastle*.

Nov. 2. The Commissioners being met, those of *Pensilvania* said, that, having considered the Adjournment proposed by the Gentlemen of *Maryland*, they had come to a Conclusion thereupon; but as, at a former Meeting, they had strenuously insisted, that *Minutes* of what had now past should be kept, they thought it incumbent on them, *to read* at the Board the Minutes they had taken, at the Close of which their Answer to the Adjournment would appear; the Gentlemen of *Maryland* answering, that those of *Pensilvania*, undoubtedly had the Liberty to read what Paper they pleased; the foregoing Minutes were read: The Adjournment being thus agreed to, the Gentlemen of *Maryland* were asked, whether they could object to the Truth of these Minutes? Their Governor answered, he had nothing to say to any Minutes we should take; but the same Question being repeated, and an Answer pressed for, he said, the Arguments used on their Part were not, in these Minutes, set in so strong a Light, as he believed he could place them in, if he were to draw the Minutes, and particularly observed that the Reasons he had given, for insisting on a Sight of the Charter for *Pensilvania*, and Deed of Feoffment for *Newcastle*, were not taken notice of; To which it was answered, that all Arguments were designedly omitted: He then desired one of the Commissioners, on the Part of *Maryland*, to read a Minute they had prepared, which mentioning *only* that, in pursuance of their former Adjournment, the Commissioners had met at *Newcastle*, to run the Circle, specified in the Agreement, and that, Difficulties having arisen touching the same, they had adjourned to the first Day of *February*, *was objected to* by the Commissioners on the Part of *Pensilvania*, *as imperfect and unsatisfactory*. The Governor of *Maryland* then producing a Paper, of some Notes he had taken, asked what the Gentlemen of *Pensilvania* could say to that? Which being read by him, was to this Effect, that five of the Commissioners for *Maryland*, and all those for *Pensilvania*, being met, in pursuance of their Adjournment at *Newtown*, He, upon reading the second Article of Agreement, desired a Sight of the Charter for *Pensilvania*, and Deed of Feoffment for *Newcastle*; that it had been argued by the Commissioners on the Part of *Pensilvania*, that the Charter and Deed, being recited in the Agreement, the Proprietors on both Parts were bound by the said Recitals, whether true or false. This being read, the Commissioners for *Pensilvania immediately objected* thereto, and insisted that no such Words had ever been used, by any of them, for it could not be supposed that the Recitals drawn by Council, and mutually signed by the Proprietors, could be false; the Governor of *Maryland* said, that, tho' these Words might not have been used, yet they were *consequential* to what was said; and then, putting up the Paper, without offering any *other* Minute, or an Amendment to that, on the Objection made, and observing that, an *Adjournment* being *agreed* to, there was no occasion for further Disputes, at this time; the Commissioners taking leave of each other, parted.

The foregoing four Days Minutes are all upon one Paper, and are proved by Messieurs *Preston* and *Logan*, and are the *Pensilvania* Exhibit marked Letter C.

Jan. 26. A Commission from *John*, *Thomas* and *Richard Penn* of this Date, appointing (in their *own* Names) Major *Gordon* the former Governor, to be Governor of the said Province of *Pensilvania* and Lower Counties.——*Newcastle* Records, N° 11. Fol. 100.

Note, They had *before* purchased a Release from their Father's Heir at Law.

Feb. 1. 2. 3. Lord *Baltimore* in the Schedule to his Answer at Fol. 463. and the following Sheets (which are in Fol. 26. and 27. of this Brief) has given the Account of these Days Proceedings of the Commissioners, in such manner as he says his Commissioners returned the same *to him*; But as they are very *short* and *defective*, especially of all that past on the 3d of *February* (after the *pretended* Disappointment for about an Hour on our Parts) so we have Proof that one *John Georges* is dead, and we have Proof that he swore to an Affidavit (made upon the 26th Day of the same *February*) of what past on those Days; and our present Witness also says, he *believes* that that Affidavit was *writ* by the said *John Georges*; On which account, as a Paper *writ* by a Man since *dead* (though *not* as an Affidavit) we hope we may read it; And we have, the Copies of the Notices, *duly proved*, which were served upon the *Maryland* Commissioners upon the said 3d of *February*; which written Paper, and which Notices, are as follow, *viz.*

John Georges of *Philadelphia* in the Province of *Pensilvania* Gent. being solemnly sworn on the Holy Evangelists maketh Oath, That he was at *Newcastle* on *Delaware* the first Day of *February* Instant, where he saw *Samuel Ogle*, *Charles Calvert*, *Matthew Tilghman Ward*, *Michael Howard*, *Benjamin Tasker* and *Edmund Jennings* of *Maryland* Esquires, and likewise *Isaac Norris*, *Samuel Preston*, *Andrew Hamilton*, *James Steel*, and *Robert Charles* of the Province of *Pensilvania*; That he understood these Gentlemen to be Commissioners appointed for the Execution of certain Articles agreed upon by the Proprietaries of *Pensilvania* and *Maryland*, and had met together in the Afternoon of that Day, and likewise in the Forenoon and Afternoon of the Day following, which was the 2d Current; That this Deponent, in the Evening of that Day, being in Company with the above-named Gentlemen of *Pensilvania*, heard them make *great Complaints*, of the Usage they received at the Hands of the Commissioners of *Maryland*, in giving needless Delays, and raising unaccountable Objections to the Work then before them; That they particularly complained that, notwithstanding they had repeatedly pressed the Commissioners of *Maryland* to suffer a *Clerk* or *Clerks* to be present at their Meetings, and take *Minutes* of what should pass between them, and had supported this Proposal by the very best and most solid Arguments in their Power, yet those of *Maryland* persisted in a *flat Denial*, would allow no other Persons but the Commissioners to be present at the Meetings, *nor would consent* that the Proceedings should be carried on in Writing; That the Commissioners of *Maryland* had amused them, the Commissioners of *Pensilvania*, all Day long, with a very *strange* Interpretation of the Circle to be described round *Newcastle*, as if the same was to contain only twelve Miles in *Circumference*, instead of being described with a *Radius* of twelve Miles; That it had been proposed, on this Point, to consult the Mathematicians and Artists attending on both sides; and that a Question, stated by the Commissioners of *Maryland*, though unfairly as was apprehended by those of *Pensilvania*, had been offered; That besides, as no Center was directed by the Agreement, *they* questioned whether they had any Power to fix one. And this Deponent saith, that next day, being the 3d of this Instant *February*, he went, in the Morning, to the Lodgings of some of the *Pensilvania* Commissioners, when he found they were all met together with their Artists, and were reducing into Writing their Thoughts on the Dispute then in Agitation touching the Circle, which they told this Deponent they intended to deliver to the Commissioners of *Maryland*, at their Meeting in the Forenoon; That this Deponent observed the Commissioners of *Pensilvania* to be *in great hurry* for finishing the same; That three of the said Commissioners, *viz.* Messieurs *Norris*, *Preston* and *Steel*, went to the Court-House of *Newcastle*, to meet the Commissioners of *Maryland*, leaving Messieurs *Hamilton* and *Charles* with the Artists; That this Deponent was sent to Mr. *Steel*, for a Paper in his Custody; That no

no ſooner was the Paper, intended for the Commiſſioners of *Maryland*, drawn up, and the ſame, with a Copy thereof, duly compared by this Deponent, and the ſaid Commiſſioners ſetting out for the Court-Houſe, but Mr. *Norris*, returning, ſaid, that Governor *Ogle* had taken it ill to have waited ſo long, and had *broke* up the Meeting; Whereupon Mr. *Charles*, with this Deponent in Company, went to Governor *Ogle*'s Lodgings, and there *this Deponent heard Mr. Charles* tell the ſaid Governor that it could not but ſurprize the Commiſſioners of *Penſilvania* to find that they were gone from the Court-Houſe; That probably it might, *now*, be an Hour, or an Hour and half after the preciſe Time to which they ſtood adjourned; but could not believe that ſo ſmall a Delay could be interpreted a Failure in Meeting; ſince that, *Yeſterday*, the Commiſſioners of *Penſilvania* had waited a full Hour after the adjourned Time for thoſe of *Maryland*; and that they were *now* ready to wait of them, and a good deal of Buſineſs might be tranſacted *before Dinner*; To which Governor *Ogle* replied, that he could not think of meeting the Commiſſioners of *Penſilvania*, till he had conſulted the Matter; for that, if any Advantage had ariſen to Lord *Baltimore* his Conſtituent by the ſaid Failure, he the ſaid Mr. *Ogle* ſhould think it imprudent to give it up; Upon which, Mr. *Charles again preſſed* the Meeting, but the other *refuſed*. This paſſed ſome time after 12 o' Clock at Noon, and, about an Hour thereafter, ſeveral of the Commiſſioners of *Penſilvania*, with this Deponent, went to the Lodgings of Governor *Ogle*, to wait upon him and the reſt of the Commiſſioners for *Maryland* to Dinner, according to an Invitation given by the Gentlemen of *Penſilvania* the Day before; That the Commiſſioners on both ſides, and this Deponent, dined together, at one *Henry Newton*'s in the ſaid Town of *Newcaſtle*; That, about an Hour after Dinner, Mr. *Ogle*, with the reſt of Lord *Baltimore*'s Commiſſioners, departed; That ſoon after, the Commiſſioners on the ſide of *Penſilvania*, with this Deponent, waited upon Mr. *Ogle* at his Lodgings, where were preſent two others of the *Maryland* Commiſſioners, *viz.* the Honourable *Charles Calvert* Eſq; and Mr. *Edmund Jennings*; That Mr. *Norris* began to make ſome Apologies for the Commiſſioners of *Penſilvania* not meeting thoſe of *Maryland* at the preciſe Hour agreed upon; That the ſaid Mr. *Jennings* retired from the Company, with a View, as this Deponent ſuppoſes, that there ſhould not be a Quorum of their ſide; The Reaſons of the Failure of Meeting, at the preciſe Time appointed, were told; and that one chief Cauſe thereof was, that as the Commiſſioners of *Maryland* having, the Day before, objected ſomething ſo very extraordinary, concerning the Circle about *Newcaſtle*, that thoſe on the ſide of *Penſilvania* thought it proper to give their Anſwer thereto *in Writing*, the drawing up of which occaſioned their not being preciſely punctual to Time; That this Deponent having the Paper, containing thoſe Anſwers, about him, ſigned by five of the Commiſſioners for *Penſilvania*, with a Copy thereof, he delivered it to Mr. *Hamilton*, who gave it into Mr. *Ogle*'s Hands; That Mr. *Ogle* looked at the Beginning and the End of it, and offered it back again to Mr. *Hamilton*; but he refuſing to take it, Mr. *Ogle* threw it careleſly down upon a Chair near him, and ſaid that *they* were not then a Quorum, and therefore, could not enter upon any Buſineſs; That Mr. *Hamilton* ſaid the Commiſſioners of *Penſilvania* were *now ready* and would meet thoſe of *Maryland*, either in the Court-Houſe, or at any other place, where they would appoint; That Mr. *Ogle* inſiſted, that as they had failed in Point of Time in the Morning, he ſhould not think himſelf obliged to appoint any other Meeting; and, as the Affair between the two Proprietors of *Maryland* and *Penſilvania* was of very great conſequence, that if any Benefit ſhould accrue to his Conſtituent by ſuch Failure, that he could not anſwer it, either to Lord *Baltimore* or himſelf, if he did not take the Advantage of it. That, thereupon, Mr. *Hamilton* obſerved that, if he imagined the Failure of an Hour, or an Hour and a half, could be underſtood as a wilful Deſign to break up their Meeting, that he would moſt certainly find himſelf greatly miſtaken; for that, in all Caſes, where Commiſſioners are appointed to tranſact any Affairs, the Delay of an Hour, or two, or three, or more, is of little or no Signification; for that, though any one particular Hour might be appointed, yet, if they met at any time in that Day it would be ſufficient, and that it was an adjudged Rule, in the Books of Law, that Commiſſioners on one ſide were obliged to wait for thoſe of the other from Nine o'Clock in the Morning till Six in the Evening. Mr. *Hamilton*, likewiſe, obſerved that it was very extraordinary they ſhould ſo rigidly inſiſt upon the Failure of ſo *ſmall* a Space of Time, when they very well knew, that at their *former* Meetings at *Newtoun*, and the ſaid Town of *Newcaſtle*, ſometime in *October* laſt, many Delays were occaſioned on their ſide; at *Newtoun* eſpecially, that the Articles of Agreement were objected to, becauſe ſome of Mr. *Penn*'s Family did not ſign them; That it was made appear, they were ſigned by all the neceſſary Perſons concerned; and that the reſt of the Commiſſioners were ſatisfied in that Point, when, at laſt, Mr. *Ogle* gave it up, but with a *Reſerve, for that time only*; and that, upon their meeting afterwards at *Newcaſtle*, purſuant to their Adjournment at *Newtoun*, *other* Difficulties were ſtarted; For, notwithſtanding that, in the Articles of Agreement, Recitals of all the Grants and Deeds neceſſary were made, yet, they inſiſted upon ſeeing the Originals, in Compliance to which the Commiſſioners of *Penſilvania* ſent up one of their Number to *Philadelphia*, to bring down the ſame, which occaſioned a Delay of one Day, at leaſt; That, when thoſe Originals were produced, and found to be agreeable to the reſpective Recitements, they further inſiſted to have Copies thereof, or ſuch Parts thereof as they thought neceſſary, which was likewiſe complied with; Mr. *Hamilton* further mentioned that Mr. *Ogle* might very well remember, that it was the Opinion of the Gentlemen of *Penſilvania* that a *Clerk* or *Clerks* ſhould be appointed to take Minutes of the Proceedings of the Commiſſioners on both ſides, that their Tranſactions might appear, which the Gentlemen of *Maryland* would not agree to; That it was then propoſed by the Commiſſioners of *Penſilvania* that each Side ſhould take their own Minutes, and exchange them *ſigned*, but that was alſo refuſed on the ſide of *Maryland*; —That, from ſuch Proceedings, Mr. *Hamilton* ſaid, he could not help obſerving that it appeared to him that the Gentlemen of *Maryland* were not inclined to execute the Articles with ſuch Fairneſs, Candour and Diſpatch as is therein recommended. Mr. *Ogle* replied that as he knew little or nothing of the Law, he deſired to be excuſed from entring into an Argument with one of that Profeſſion: A Meeting of the Commiſſioners being again preſſed by thoſe of *Penſilvania*, and *refuſed* on the ſide of *Maryland*, Mr. *Charles* read a Notice of Meeting at the Court-Houſe of the ſaid Town of *Newcaſtle* at Six of the Clock that Evening, which Mr. *Ogle* refuſed to take notice of, but it was left with him, and the Commiſſioners of *Penſilvania* attended at the ſaid Court-Houſe from Six of the Clock till ſome time after Eight, this Deponent being with them all the while; but as the Commiſſioners of *Maryland* did not come there, it was thought proper to give them *freſh Notice* of meeting on the *Monday* following, at Ten o'Cock in the Forenoon; and that the Deponent waited upon Mr. *Ogle* at his Lodgings, between the Hours of Nine and Ten in the Evening, and acquainted him that one of the Commiſſioners on the ſide of *Penſilvania* was there, with a Meſſage to deliver him from the reſt; That Mr. *Ogle* anſwered, it was an unſeaſonable Time, and would receive no Meſſages, that he did not chooſe to ſay an uncivil thing to any Gentleman, and therefore deſired to be excuſed from admitting him; That though Mr. *Ogle* would not ſuffer that Commiſſioner to wait upon *him*, yet the Notice of Meeting, at Ten o'Clock, on the *Monday* following, as above mentioned, was (as this Deponent was informed) ſerved upon four of the Commiſſioners for *Maryland*, that ſame Night, but, inſtead of paying any regard thereto, all the Commiſſioners for *Maryland* ſet out from *Newcaſtle* the next Day, being *Sunday*.——This Deponent thinks proper to obſerve, that though what he has above depoſed may not be delivered in the ſame Words, nor in the ſame Order, in which they paſſed; yet, that the ſeveral Depoſitions are ſtrictly true, and as nearly in the ſame Words and Order as his Memory can furniſh him with, and further this Deponent ſaith not. Sworn before the Mayor of *Philadelphia* the 26th of the ſame *February* 1732.

Mr. *Haſell* the Mayor of *Philadelphia* not only proves that Mr. *Georges* ſwore to the foregoing Affidavit before him, but he alſo adds, he *believes* the ſaid Affidavit was *writ* by the ſaid *Georges*, and it makes the *Penſilvania* Exhibit markt Q. q.

1732, *Feb.* 3. The following is a very *ſenſible* and material Paper, which our Commiſſioners delivered to Mr. *Ogle* upon this Day, *in Writing*, in anſwer to the pretended Doubts about the Center and the Dimenſions of the Circle, *viz.*

The Commiſſioners on the Part of *Maryland* having made *two* Objections againſt running the Circle, or Part of a Circle, about the Town of *Newcaſtle*, as directed by the Agreement made between the Proprietors of *Penſilvania* and *Maryland*.——1. For that there being no *Center* fixed, or agreed upon by the ſaid Proprietors, from whence the ſaid Circle ſhall be drawn, they conceive they have no Power to make a Center, and therefore are not warranted by their Commiſſions to run the ſaid Circle.——2dly, For that the Deed of Bargain and Sale, or Feoffment, from the late Duke of *York*, to the late *William Penn* Eſq; the elder, for the Town of *Newcaſtle*, and the Lands about the ſame, being expreſſed in theſe Words, to wit, All that the Town of *Newcaſtle* otherwiſe called *Delaware*, and all that Tract of Land lying within the Compaſs or Circle of twelve Miles about the ſame, ſcituate lying and being upon the River *Delaware* in *America*, the ſaid Commiſſioners for *Maryland* do object, That the Circumference or Periphery of that Circle is to be but twelve Miles, which they ſay will make a Diameter ſcarce *four Miles*, or at moſt, it will but make a Diameter of *twelve* Miles; ſo that the Radius of the Circle to be run by the preſent Agreement about the Town of *Newcaſtle* will be but ſix Miles *at moſt*, and that the Words in the Articles of Agreement and Commiſſions, which direct that the Circle ſhall be at the Diſtance of twelve *Engliſh* Statute Miles from the Town of *Newcaſtle*, are, either ſuperfluous, or are contradictory to the Deſcription in the Deed of Feoffment, and therefore, *void* in themſelves.——To which Objections, the Commiſſioners on the Part of *Penſilvania*, anſwer, that they conceive the Commiſſioners on both ſides, being empowered and directed by their Commiſſions, in purſuance and in part performance of the ſaid Articles of Agreement, to draw and mark out the ſaid Circle mentioned in the Charter of *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle*, or ſo much thereof as ſhall be requiſite, at twelve Miles *Diſtance from the Town of Newcaſtle*, which twelve Miles ſhall be twelve *Engliſh* Statute Miles, and, to do *every thing neceſſary* for running the ſame accordingly, and that the Words in the ſaid Deed, as well as the Words in the ſaid Articles of Agreement and the ſeveral Commiſſions from the reſpective Proprietors to their Commiſſioners, contains ſuch a Certainty, as will well warrant the Commiſſioners to proceed in drawing and marking out the ſaid Circle, or ſo much thereof as ſhall be thought requiſite.——As to the *ſecond* Objection, The Commiſſioners of *Penſilvania* are of opinion, that it is not from the Words of the before mentioned Deed, *only*, that the Radius of the ſaid Circle is to be judged of or meaſured, but, *likewiſe*, from the *Charter* of *Penſilvania*, and the *Grant* of the late Duke of *York* to *William Penn* Eſq; the Elder, for that Tract of Land upon *Delaware* River and Bay, now called by the Names of *Suſſex*, *Kent*, and Part of *Newcaſtle* County. And, if any Doubt could ariſe, upon the Words of the *Deed* of Bargain and Sale for the Town of *Newcaſtle*, &c. concerning the Radius of the Circle of twelve Miles about the ſaid Town, we conceive it is *fully explained*, cleared up, and reduced to a Certainty, by the aforeſaid *Charter* and *Deeds*; for, it is to be obſerved, that, as the Town of *Newcaſtle* and the twelve Miles round the ſame, was originally appropriated by the ſaid late Duke of *York* for certain Purpoſes, before he granted the ſame to the ſaid *William Penn*, ſo, King *Charles* the Second, when he granted the Province of *Penſilvania*, took care not to encroach upon *that* Circle, but begins the Bounds of the ſaid Province from twelve Miles *diſtant* Northward of *Newcaſtle Town*. Thus, by the King's Grant of the Province of *Penſilvania*, we ſee, that he underſtood the Periphery or Circumference of the Circle about the Town of *Newcaſtle* to be *twelve Miles diſtant from the ſame*. It is further obſervable that, by the Grant of the ſaid late Duke of *York* to the ſaid late *William Penn* the Elder, of that Tract of Land now containing *Suſſex*, *Kent* and Part of *Newcaſtle* County, the ſaid Duke, who was, at the Time of making the ſaid Grant, Owner of *both* the ſaid Town of *Newcaſtle* and the *twelve Miles round* the ſame, *and alſo* of the ſaid Tract of Land lying on the River and Bay of *Delaware*, underſtood the Circumference of the ſaid Circle to be at the *Diſtance of twelve* Miles from the *Town* of *Newcaſtle*, and, accordingly, deſcribes the Bounds of the ſaid Tract of Land as lying on *Delaware* River and Bay, and *beginning twelve Miles* South *from the Town* of *Newcaſtle*, and extending South to *Cape Henlopen*, &c.——From all which, we conceive, it is moſt evident that the Circumference of the Circle about the Town of *Newcaſtle* is twelve Miles *diſtant from the ſame*, for ſo it appears King *Charles* the Second, who was the original Granter, underſtood it, when he bounded the Province of *Penſilvania* at the *Diſtance of twelve Miles* North of the *Town* of *Newcaſtle*; And the ſaid late Duke of *York*, who was Owner of all the Land to the Southward of *Penſilvania* as far as *Cape Henlopen*, and had the unqueſtionable Right to declare the Meaning of his own Grant, he has declared how *he* underſtood the Extent of that Circle, by beginning his Grant of the Lands lying on *Delaware* and to the Southward of the ſaid Town of *Newcaſtle* at *twelve Miles Diſtance* from the ſame.——But, were it poſſible, after Conſideration had of the ſaid Charter and Deeds, for any Perſon to be in doubt, about the Extent of the ſaid Circle, or Part of the Circle, now to be markt out by the Commiſſioners, we, on the Part of *Penſilvania*, are clearly of opinion that the Proprietors of both Provinces, who are the ſole Owners of all the Lands lying between the Bay of *Cheſapeak* and the River *Suſquehanah* to the Weſtward, and the Bay and River of *Delaware* to the Eaſtward, *have*, as they had an undoubted Right to do, in moſt full and expreſs Terms, removed that Doubt, by the ſecond Article of their Agreement, where they ſay, that there ſhall be the ſaid Circle mentioned in the ſaid Charter for *Penſilvania* and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as is requiſite) drawn and marked out at the twelve Miles *Diſtance from the Town* of *Newcaſtle*, which twelve Miles ſhall be twelve *Engliſh* Statute Miles.——And as to the Objection, that ſo much of this Article as directs the Circle to be at twelve Miles diſtance from the Town of *Newcaſtle* is *ſuperfluous*, or *contradictory* to the Deeds of Feoffment aforeſaid, and, therefore, *void* in itſelf, we do not conceive it deſerves any *other* Anſwer than to ſay, that this Article is neither ſuperfluous nor contradictory, but a plain Declaration of what has been *always* underſtood to be meant by twelve Miles *about* the Town of *Newcaſtle*; And that the Proprietors of *Maryland* and *Penſilvania* had, undoubtedly, a good Right to divide their own Lands in ſuch manner as they thought fit; And they have, accordingly, agreed that the Circle about the Town of *Newcaſtle* ſhall be drawn and markt out at *the Diſtance of twelve Engliſh* Statute Miles from the ſaid *Town*, and the Commiſſioners on the Part of *Penſilvania are now ready*, and offer themſelves to proceed to the drawing and marking out the ſame accordingly.

Note, My Lord *Baltimore* in the Schedule to his Anſwer, at Fol. 573, admits that the foregoing Paper was delivered to his Commiſſioners, at *another* time, *viz.* upon 4 *September* 1733.

The foregoing Paper is proved by Meſſieurs *Logan*, *Preſton*, *Steel* and *Taylor*, and is the *Penſilvania* Exhibit markt E.

Note, It comes out in Evidence, that there was one *verbal* Requeſt, this Day, to meet before Dinner, and another *verbal* Requeſt to meet, after Dinner, but, thoſe being refuſed,

1732, *Feb.* 3. A *ſigned Notice*, by four of our Commiſſioners, directed to the Lord *Baltimore*'s Commiſſioners; That the Commiſſioners having agreed to meet at *Newcaſtle*, at Ten, or Eleven, o' Clock in the Forenoon of the 3d Inſtant, but, by reaſon of Indiſpoſition, a Quorum of our Number not appearing at the *preciſe* Hour; We do now give you the Commiſſioners on the part of *Maryland Notice*, that we will meet you at the Court-houſe, in this Town of *Newcaſtle*, at Six o' Clock *this Afternoon*.——This is proved by Meſſrs. *Logan* and *Preſton*, and is the *Penſilvania* Exhibit *B*. N° 1.

This produced no Meeting, neither.

Feb. 3. Another *ſigned Notice*, by four of our Commiſſioners, directed to Mr. *Ogle*, and which was ſerved (tho' he refuſed to be ſeen) upon four others of the *Maryland* Commiſſioners, That ſince you have declined meeting us *this Afternoon* at the Court-houſe, purſuant to the Notice given you, we judge it neceſſary to give you *further Notice*, that we will continue here till *Monday* the 5th Currant, in order to meet you at Ten of the Clock in the Forenoon of that Day, at the ſaid Court-houſe, there jointly to proceed to the Execution of our reſpective Commiſſions, which we on our parts have declared ourſelves ready to do, as from the Paper ſigned by us, and this Day delivered by one of our Number into your Hands, may fully and clearly appear.——This Paper is ſpoke to by Meſſrs. *Logan* and *Preſton*, and is the *Penſilvania* Exhibit markt *B*. N° 2.

Inſtead of meeting on the *Monday*, the *Maryland* Commiſſioners left the Town, and went back to *Maryland*, on the *Sunday*.

Feb. 15. Is the Date of *Lord* Baltimore's *Letter* to the Governor of *Penſilvania*, reviving the Meetings, and appointing one at *Joppa*; which we have particularly charged at Fol. 304. in our Bill; and the Defendant has expreſly admitted it in Fol. 316. of his Anſwer, which we muſt refer to; for we have it not to produce, nor are we bound to produce it, it being my Lord's Letter to Major *Gordon*, who is proved to be *dead*.

Notwithſtanding

Notwithſtanding that Notice from my Lord *Baltimore himſelf* that the Commiſſioners *ſhould meet* at *Joppa* on the 7th of *May*, we ſhall ſee what my Lord *himſelf* and his Commiſſioners did, in *Maryland, in the meantime*; he himſelf being then there.

For we have proved by the Reverend Mr. *Hugh Jones* of *Maryland*, a Copy of the following Letter which Governor *Ogle* wrote to him, and which he ſent to another Perſon.

1732, *Mar.* 8. To the Rev. Mr. *Jones* in *Cecil* County, Theſe. *Annapolis Mar.* 8. 1732. Sir, I ſend you this, on purpoſe to deſire you not to fail being here at the Meeting of our Aſſembly, having ſeveral Things to communicate to you in relation to his Lordſhip's Intereſt, which cannot well be brought into the Compaſs of a Letter; However, I can't, in the mean time help giving myſelf the *Pleaſure* of acquainting you that *we are not at all ſorry* at the unreaſonable Behaviour of the Commiſſioners for *Penſilvania*, in *refuſing to run out the Circle* about *Newcaſtle*, as mentioned in their *pretended* Deed of Feoffment; For, altho' *that* would be only at about *two* Miles Diſtance from *Newcaſtle*, yet, it is what I believe, they would be glad to get hereafter; my Lord having, *now*, the *moſt reaſonable Hopes* that can be of getting *every Inch* of the three lower Counties, which are ſo indiſputably *his Right*. This, to tell you *my Thoughts* freely, will be the greateſt Happineſs that can be to the preſent *Tenants*, however they may have been deceived by artful People; *His Lordſhip being determined* to let *ſuch* of them, *as behave well to his Lordſhip*, enjoy the Land they hold, without exacting *any thing* of them, either for *Arrears* of Rent, or *any other* Cauſe whatſoever beſides the ordinary Conditions of Plantations, which you know comes but to a Trifle. I am Sir Your aſſured Friend and humble Servant *Sam. Ogle*.

This Letter has the following *Underwriting* "I atteſt that *this* is a true Copy of a Letter lately ſent, *by Expreſs*, from his Excellency the Governor to me.——*H. Jones*.

This Letter has an *Endorſement* thereon thus "To Mr. *LLoyd. Mar.* 17. 1732. Sir, 'Tis a great *Satisfaction* to me, that my Lord *Baltimore* will *condeſcend* to the Parti- "culars of this Letter; I communicate it to you, *to ſhew any of your Friends* that may have any Intereſt therein, and am, Sir, Your's, *H. Jones*.

The foregoing *Copy of a Letter* is proved by *Hugh Jones* Clerk of *Maryland*, and is the *Penſilvania* Exhibit in a marbled Cover, N° 2.

Note. This was to *draw off* our Tenants, *while* my Lord himſelf had writ to appoint a new Meeting at *Joppa*, and the Original hereof was writ by his Governor and *firſt Commiſſioner* Mr. *Ogle*.

But, leſt this ſhould not be quite plain enough, nor quite *publick* enough, we have alſo proved the following *printed* Advertiſement.

Mar. 21. "*Annapolis Mar.* 21. 1732. By Order of the Right Honourable the Lord Proprietor. To all Perſons whom it may concern, All Takers-up of Land within the Province of "*Maryland*, who may *pretend* to hold them by virtue of *any* Grants or Patents, *not* deriving the ſame from the *preſent Proprietor or his Anceſtors*, will be intitled to no Benefit "thereby, *unleſs* they make *ſpeedy* Application to *Matthew Tilghman Ward* Eſq; Agent for the Proprietor. Sign'd by Order, *John Roſs* Dep. Agent.

This alſo is proved by *Hugh Jones* of *Maryland* Clerk, and is the *Penſilvania* Exhibit in a marbled Cover, markt N° 1. and was, by my Lord's own Order, poſted up on the Borders of the Three lower Counties.

So that, while my Lord, himſelf, had appointed the new Meetings of the Commiſſioners at *Joppa*, and was himſelf in *Maryland*, here were *written*, and *printed*, *Invitations* and *Threats*, to draw off our Tenants, and they were to apply to Mr. *Ward*, another of my Lord's Commiſſioners. And theſe laſt printed Papers are proved to have been ſtuck up on the Borders of the Three Lower Counties by my Lord *Baltimore*'s *own* Orders.

1733, *Mar.* 28. The Notice ſigned by all the *Penſilvania* Commiſſioners, and ſerved perſonally upon ſix of Lord *Baltimore*'s Commiſſioners in *Maryland*, viz.

Gentlemen. Five of us, the under-written Commiſſioners appointed by virtue of a Commiſſion from the Honourable the Proprietaries of *Penſilvania*, for executing certain Articles of Agreement concluded between them and the Right Honourable *Charles* Lord *Baltimore*, Proprietor of the Province of *Maryland*, touching the Limits of the ſaid Provinces and Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, having met the like Number of you, the Commiſſioners appointed by the ſaid Lord *Baltimore*, at *Newcaſtle*, on the firſt Day of *February* laſt, purſuant to our former joint Adjournment, and continued together till the 3d Day of the ſame Month, when, from a pretended Failure, by reaſon of a Quorum of us not appearing at the preciſe Hour in the Forenoon of that Day, to which we ſtood adjourned, you thought fit to withdraw yourſelves from the Court-houſe of the ſaid Town of *Newcaſtle*, the Place of our Meeting, and, notwithſtanding you, and we, met together, *ſeveral times*, afterwards, in the ſame Day, yet, inſiſting on that ſuppoſed Failure, you refuſed, as Commiſſioners, to join with us, in the Execution of our reſpective Commiſſions, by which Refuſal, we were obliged to ſerve you with Notice to meet us the *ſame Evening*, at ſix o' Clock, at the Court-houſe of *Newcaſtle* aforeſaid, which you neglecting to do, we, the ſame Evening, *again*, ſerved a Quorum of you (Acceſs being denied us, to others of your Number) with Notices to meet us at the Place aforeſaid on *Monday* the 5th Day of the ſaid Month; which, likewiſe, you thought fit ſo little to regard, that, leaving *Newcaſtle* the Day before, you again neglected to meet us at the Time and Place, by the ſaid Notices appointed. But we the underwritten Commiſſioners, notwithſtanding the Diſregard ſhewed to our former Notices, being ſtill willing to proceed on the Buſineſs which now lies before the Commiſſioners jointly, (*viz.*) the Execution of the ſecond Article of the ſaid Agreement, which follows in theſe Words——"That there ſhall be the ſaid Circle, mentioned in the ſaid Charter for *Penſil-* "*vania*, and Deed of Bargain and Sale or Feoffment of *Newcaſtle* (or ſo much thereof as is requiſite) drawn and markt out at the 12 Miles Diſtance from the Town of *New-* "*caſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles") Do hereby give you, and each of you, Notice, That we, or a ſufficient Quorum of us, will attend at the ſaid Town of *Newcaſtle* on *Delaware* (which by the *joint* Conſent of the Commiſſioners on both Sides, hath been acknowledged to be the *only Place* proper for beginning the Buſineſs immediately before us) on the 16th Day of *April* next enſuing, there to meet and join with you, agreeable to the Directions of our reſpective Commiſſions, in proceeding to draw and mark out the ſaid Circle accordingly.——Given under our Hands at *Philadelphia* the 28th Day of *March* 1733.

The foregoing Paper is proved by Meſſrs. *Logan* and *Preſton*, who ſigned, and by *William Biddle* who ſerv'd it; and is the *Penſilvania* Exhibit markt *B*. N° 5.

May 7. The written *Queſtion* from the *Maryland* Commiſſioners, whether the *Penſilvania* Commiſſioners would run out any Circle, other than at 12 Miles Diſtance? And the *Penſilvania* Anſwer, that they conceived themſelves directed to run *no other* than that in the Articles, which they mention *verbatim*.——This is proved by Meſſrs. *Preſton*, *Logan* and *Steel*, and is exactly as ſet forth by the Schedule to the Defendant's Anſwer at Fol. 532, 533.——The Original is *Penſilvania* Exhibit markt Letter *H*

May 8. The *Penſilvania* Commiſſioners written *Propoſal*, and the *Maryland* Anſwer, of this Date, are ſet forth in Fol. 536. of the Defendant's Anſwer.——The Originals are proved by Meſſrs. *Logan*, *Preſton* and *Steele*, and are the *Penſilvania* Exhibit markt *J*.

May 8. The *Maryland* Commiſſioners written *Propoſal* and the *Penſilvania Anſwer*, of this Date, are ſet forth in 540. of the Defendant's Anſwer.——The Originals are proved by Meſſrs. *Logan*, *Preſton* and *Steele*, and are the *Penſilvania* Exhibit markt *J*.

May 9. The written *Minute of Adjournment* from *Joppa* is ſet forth in the Defendant's Anſwer, Fol. 545.——The Original is proved by Meſſrs. *Logan*, *Preſton* and *Steel*, and is markt *K*.

May 26. The written *Minute* of this Day is ſet forth in Fol. 550. of the Defendant's Anſwer.——The Original is proved by Meſſrs. *Logan*, *Preſton* and *Steel*, and is markt *L*.

Aug. 2. *An Order of the King in Council*, made upon the Petition of the now Plaintiffs, *John*, *Thomas* and *Richard Penn*, and upon a Report from the Committee of Council dated the 1ſt of *Auguſt*; taking Notice that they had delivered to the Lords of Trade a Declaration under their Hands and Seals, in the uſual Form, for ſaving the Right *claimed* by the Crown to the three Lower Counties; whereby his Majeſty approved of the ſaid *Patrick Gordon* to be Deputy-Governor of *Penſilvania* without Limitation of Time, and of the ſaid Counties during his Pleaſure only; provided he qualified himſelf according to Law, and gave 2000 *l.* Security before the Lieutenant-Governor of *Virginia* for obſerving the Acts of Trade.——This Exhibit is Co. Off. N° 27.

Note. This Order of Council is alſo entred in——*Newcaſtle* Records, N° 11. Fol. 102.

Sept. 3. The *Penſilvania Demand*, of this Date, is ſet forth in the Defendant's Anſwer Fol. 553.——The Original is proved by Meſſrs. *Logan*, *Preſton* and *Steel*, and is *Penſilvania* Exhibit, Letter *M*.

Sept. 4. The *Maryland Anſwer* thereto of this Date, is ſet forth in the Defendant's Anſwer Fol. 556.——The Original is proved by Meſſrs. *Logan*, *Preſton* and *Steel*, and is in *Penſilvania* Exhibits, Letter *N*.

Sept. 4. The *Penſilvania Paper* of this Date, is ſet forth in the Defendant's Anſwer Fol. 562.——The Original is proved by the ſame three, and is in the *Penſilvania* Exhibits, Letter *O*.

Sept. 5. The *Maryland Anſwer* of this Date, is ſet forth in the Defendant's Anſwer Fol 588.——The Original is proved by the ſame three, and is in the *Penſilvania* Exhibits, Letter *P*.

Sept. 6. The *Penſilvania Categorical Demand*, that the others would run the Circle at 12 Miles Diſtance, or elſe declare they would not?——The Copy is ſet forth in Defendant's Anſwer Fol. 584. The Original is proved by the ſame three, and is in *Penſilvania* Exhibits, Letter *Q*.

Sept. 6. The *Maryland Anſwer* thereto, they cannot agree to *that* Circle. The Copy is ſet forth in Defendant's Anſwer Fol. 596. The Original is proved by the ſame three Perſons, and is in *Penſilvania* Exhibits, Letter *S*.

Sept. 6. The *Maryland Demand*, whether the *Penſilvania* Commiſſioners will run no other Circle? The Copy is ſet forth in Defendant's Anſwer Fol. 598. The Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits, Letter *R*.

Sept. 6. The *Penſilvania Anſwer*, that they can't agree to run *any other*. The Copy is ſet forth in the Defendant's Anſwer Fol. 599. The Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits, Letter *T*.

Sept. 6. The *Minute of Adjournment* to the 14th of *November*. The Copy thereof is ſet forth in the Defendant's Anſwer Fol. 601. and the Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits, Letter *U*.

Nov. 14. From the *Newcaſtle* Records, an *Entry* recorded there, of a Teſtimonial given by Mr. *Gooch* the Lieutenant-Governor of *Virginia*, under the Great Seal of that Colony, that Colonel *Gordon* had taken the Oaths, ſubſcribed the Teſt, took the Oath of Office, and given 2000 *l.* Bond to obſerve the Acts of Trade, before him.—*Newcaſtle* Records, N° 11. Fol. 103.

Nov. 16. The *Maryland* Paper of *Propoſals* at *Newcaſtle*, to go away to Cape *Hinlopen* to run the Eaſt and Weſt Line there.—The Copy is ſet forth in the Defendant's Anſwer, Fol. 606, and the Original is proved by Meſſrs. *Logan*, *Preſton* and *Steel*, and is in the *Penſilvania* Exhibits, Letter *W*.

Nov. 17. The *Penſilvania* long *Anſwer* thereto, recapitulating the ſeveral Inſtances of Chicanery which had been uſed by the *Maryland* Commiſſioners.——The Copy is ſet forth in the Defendant's Anſwer Fol. 609. and the Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits, Letter *X*.

Nov. 19. The *Maryland* long *Anſwer* thereto, pretending that there were *no Minutes* taken to juſtify what was therein contained, (which was one of the Objections all along that they refuſed to let Minutes be taken) and telling them plainly they muſt either continue at *Newcaſtle* without running the Circle, or elſe depart without Adjournment.—The Copy is ſet forth in the Defendant's Anſwer, only with ſome Miſtakes in the Copying made by the Clerk, Fol. 635, and the Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits markt Letter *Y*.

Nov. 20. The *Penſilvania* long *Reply* thereto is ſet forth in the Defendant's Anſwer Fol. 671. The Original thereof is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits markt Letter *Z*.

Nov. 22. The *Maryland Paper* then delivered. It is ſet forth in the Defendant's Anſwer Fol. 703. And the Original thereof is proved by the ſame three Perſons, and is in the *Penſil-* Exhibits markt Letters *Z a*.

Nov. 23. The *Penſilvania Anſwer* thereto is ſet forth in the Defendant's Anſwer Fol. 716. and the Original is proved by the ſame three Perſons, and is in the *Penſilvania* Exhibits markt Letters *Z b*.

Nov. 24. The *Parting Minute*, ſigned by the Commiſſioners on both ſides, declaring their Difference in Judgment to be, whether the Circle was to be 2, or 12 Miles diſtant from *Newcaſtle*, and then breaking up without further Adjournment. The full Purport of this is ſet out in our own Bill Fol. 347. It is again ſet out, *verbatim*, at Fol. 338. in the Body of the Defendant's Anſwer, and alſo at Fol. 726. in the Schedule to his Anſwer. The Original is proved by Meſſrs. *Logan* and *Preſton*, and is in the *Penſilvania* Exhibits markt Letters *Z c*.

Jan. 10. A *Report then made* by all the ſeven *Penſilvania* Commiſſioners to their Proprietors, and then ſigned, and afterwards ſworn and affirmed to by them, in *Penſilvania*, containing in it a *minute Relation* of all that had paſt from day to day, between the Commiſſioners on both ſides, and alſo containing *Copys* at full length of all the foregoing Papers which paſt, between them; and which Paper (as ſome of thoſe Commiſſioners are ſince dead) we have proved to have been *ſigned* and ſworn to by *all* the *ſeven* Commiſſioners, by Meſſrs. *Logan*, *Preſton*, *Hamilton* and *Græme*. It is, of itſelf, a large Book, under the Great Seal of *Penſilvania*, markt *A*.

But as *others* of the Commiſſioners are ſtill living, and have, in this Cauſe, given Evidence to the ſame Facts, and proved the Copies of the ſame Papers exchanged between the Commiſſioners on each ſide, I would not again incumber you with that Heap of Matter.

Only this, That in Fol. 26. and 27. of this Report, they have inſerted the Body of my Lord *Baltimore*'s Letter of 15 *Feb.* to revive the Meetings of the Commiſſioners, and appointing the Meeting at *Joppa* for the 7th of *May*, of which at preſent we have no other Copy.

Chap. XV. From *Chriſtmas* 1733, to the Time of filing the preſent Bill in *June* 1735.

1734, *Aug.* 8. THE now Defendant's *Petition* to the King in Council, wherein he ſtates the Charter for *Maryland*, and that his Anceſtors, purſuant to the Deſign of the ſaid Charter, with great Charge and Difficulty proceeded to cultivate and ſettle ſuch Part of the Country ſo granted, as the Nature thereof would admit, intending, by Degrees, to make a *compleat* Settlement of the whole.——"That it appears by an *Order of Council* of the 4th of *April* 1638, that Captain *William Clayborne*, on the Behalf of "himſelf and Partners, having preſented a Petition to his late Majeſty, King *Charles* the Firſt, ſhewing that, by a Commiſſion from his Majeſty, they had planted upon an "Iſland,

" Iſland in the Great Bay of *Cheſepeak* in *Virginia*, named the Iſle of *Kent*, and other Places therein mentioned, and beſtowed great Charges thereon, and that the Lord *Baltimore* had " obtained a Patent from his ſaid Majeſty, comprehending the ſaid Iſland and Places, within the Limits thereof, they thereby prayed a Grant of Confirmation of the ſaid Iſland and Places " to the ſaid Petitioners; and the Matter of the ſaid Petition being referred to the then Lord Archbiſhop of *Canterbury*, the Lord Keeper, Lord Privy Seal, and others, and it appearing " that the ſaid Iſle of *Kent* was *within* the ſaid Lord *Baltimore*'s Patent, and it appearing alſo, by an Order of Council of the 3d of *July* 1633, that the Right and Title to the ſaid Iſle of " *Kent*, and other Places in Queſtion, had been reſolved and declared abſolutely to belong to the Lord *Baltimore*, their Lordſhips declared, that no Grant ſhould paſs to the ſaid *Clayborne* " or any others of the ſaid Iſle of *Kent*, or other Places within the ſaid Patent."—That the Petitioner conceives, from the ſaid Order of Council, and from the *Body* of the Patent, (which hath no reſtrictive Words of *hactenus inculta*) that all Lands, within the *Limits* of the ſaid Patent, did paſs to the Lord *Baltimore*; but finds that, purſuant to an Order of Council dated the 31ſt *May* 1683, the Lords of the Committee for Trade and Plantations, amongſt other Things, reported that the Land intended to be granted by the Lord *Baltimore*'s Patent, was only Land uncultivated and inhabited by Savages, and that Part of the ſaid Land called *Delaware* was inhabited by Chriſtians, at and before the Date of the Patent, [Here, in *pretending* to ſet out this Order, he only leaves out theſe eſſential Words, *viz. As it hath been ever ſince to this Time, and continued as a diſtinct Colony from that of* Maryland] and were, therefore, of Opinion that the Tract of Land lying between the River and the Eaſtern Sea on the one Side, and *Cheſopeake* Bay on the other, ſhould be divided into equal Parts, by a Line from the Latitude of Cape *Hinlopen to the 40th Degree* of Northern Latitude, and that one Half thereof, lying towards the Bay of *Delaware* and the Eaſtern Sea, ſhould be adjudged to belong to his then Majeſty, and that the other Half ſhould remain to the Lord *Baltimore*, as comprized within his Charter, which was accordingly ordered by his ſaid Majeſty King *James* the Second by Order of Council of 7th *November* 1685.——But the Petitioner ſhews, that if any Part of the ſaid Tract of Land mentioned in the ſaid Report was inhabited at the Time of the ſaid Patent, by *any* Chriſtians, yet, they were not Subjects of the Crown of *England*, but *Swedes* and *Dutchmen*, or the Subjects of *Foreign* Nations.———That, as the *whole* of that Part of the ſaid Peninſula is plainly deſcribed *within the Limits* of the ſaid Grant to the Petitioner's ſaid Anceſtors under whom he claims, ſo he conceives the ſame was intended to paſs, and did paſs, by the ſaid Charter; in regard the chief Deſign thereof was to enlarge and extend the *Engliſh* Empire and Dominion, and, therefore, in the *Body* of the ſaid Charter all that Part of the ſaid Peninſula, comprized within the Limits therein delineated, is granted, without *any* Qualification or Reſtriction, of the ſaid Words *hactenus inculta*, mentioned in the Recital of the ſaid Charter.——That, altho' the ſaid Order of King *James* cannot legally infringe the Rights of the ſaid Charter, yet, the ſame may hereafter create *Doubts*, and occaſion the Petitioner's Right, to the Lands therein mentioned, to be drawn in queſtion, and thereby create great Expence to the Petitioner; but the Petitioner prays the King not to interpret the ſaid Words *hactenus inculta*, in a Senſe excluſive of any Part of the ſaid Peninſula lying within the Limits of the ſaid Charter, altho' ſome very ſmall Parts thereof ſhould, at the Date thereof, happen to have been inhabited by the Subjects of Foreign Powers; and that, in regard the Petitioner's Anceſtors had been at great Expence and Hazard, to ſettle and plant that Part of the ſaid Peninſula, deſcribed within the Limits of the ſaid Charter, and to extend the Empire and Dominion of the Crown of *England*, agreeable to the Royal Intention, as expreſſed in the ſaid Charter.———He prays that the King would, by a further Charter or Letters Patent, confirm unto him and his Heirs and Aſſigns *the whole* of ſuch Part of the ſaid Peninſula as is contained within the *Limits* of the ſaid Charter, notwithſtanding the ſaid Words of *hactenus inculta*, in the Recital of the ſaid former Charter or Letters Patent inſerted.——Co. Off. N° 28.

Note, You'll obſerve there is not a Syllable of Mention made in this Petition of the Province of *Penſilvania*, or of the Proprietors of it, or of the three lower Counties, (which are not once named) or of the long Poſſeſſion and Improvement made thereon, or of the Articles of Agreement which he had entred into; but he, by this Petition, preſented in a few Days after a *Second* of the Plaintiffs was gone abroad, falſely ſets up the pretended *forged* Order of 4 *April* 1638, *drops* every material Word in the *Final Order* made in 1685. and petitions, behind the Plaintiffs Backs, upon theſe Falſehoods and groſs Concealments, for a Grant to himſelf of thoſe three lower Counties which he had already conveyed and covenanted to make further Aſſurance of to the Plaintiffs; and, *their* Intereſt whereto, he had covenanted to *ſupport* and *aſſiſt*, by *all* the Means in his Power. But this is like *every other* Part of *his* Proceedings.

1734, *Aug.* 8. By Order in Council the foregoing Petition was referred to the Lords of Trade to examine the Matters and Facts *contained therein*, and report the ſame, together with their Opinion, thereupon, to his Majeſty.——Co. Off. N° 29.

When this Petition was preſented Mr. *John Penn* was, a few Days before only, gone to *Penſilvania*; Mr. *Thomas Penn* the ſecond Brother, had been there conſtantly for two Years before, immediately *after* executing the Agreement; and there was none of them in *Europe* but Mr. *Richard Penn*, the youngeſt Brother, who was but juſt come of Age, and knew nothing of the Matter.

There was no Notice of this Petition given, even to *him*, but the Lords of Trade by their Secretary, ſent a Sort of Notice of this Petition to Mr. *Paris*, who on the 17th of *October* brought him down to the Lords of Trade.

Dec. 19. The now Plaintiff *Richard Penn* preſented a Petition to the King in Council in behalf of himſelf and his two elder Brothers, then in *Penſilvania*, ſetting forth what the former Lord *Baltimore* had petitioned for, and the Crown had granted to him, in 1632; That that Province of *Maryland* was evidently known to produce to the Lord *Baltimore* a very great yearly Profit, and was, by much, the *moſt beneficial* Grant in any *Subject's* Hands in *America*; That at, and long before, the Grant to Lord *Baltimore*, the *Eaſtern* Side of the Peninſula had been poſſeſt, and was held, by the *Swedes* and *Dutch*, as had been manifeſted and determined by *many* Orders, made after the *fulleſt* Hearings and Examinations in Council; and thoſe Lands were, long after that Grant, *taken*, and afterwards confirmed by *Treaties*, from the *Dutch*; That on 4 *March* 1680, King *Charles* made the Grant of *Penſilvania*; and in 1682. the Duke of *York* conveyed the three lower Counties, which lay contiguous to *Penſilvania*, and on the *Eaſtern* Side of the ſaid Peninſula, to the Petitioner's Father, with Covenants for *further Aſſurance*; and the Duke had, for a *long time*, been in *full Poſſeſſion* of the ſame under Grants from the Crown; and had exerciſed, by his Officers, all Sorts of Acts of Ownerſhip, Proprietorſhip and Government therein; That there had been, ſoon after thoſe laſt Grants, ſuch a Conteſt in 1683, 84 and 85. and *ſuch* Determination made; which Order of 1685 the Lord *Baltimore* had, ſeveral Times ſince, petitioned againſt; ſuggeſting that it had been made *ex parte*, or that he had not been heard thereto; but, upon Examinations into *ſuch* Suggeſtions, they *likewiſe* have been declared to be *untrue*, and the ſaid Order has thereupon been *repeatedly confirmed* by ſubſequent Orders in Council in 1708 and 1709.———That the Lord *Baltimore* hath greatly extended his true Bounds, *Northwards*, beyond the Beginning of the 40th Degree, *as known and underſtood* at the Time of his Grant, but nevertheleſs, the ſame do not extend to include the 3 lower Counties, nor do include above a very ſmall Part of one of the ſaid Counties.———That, after the ſaid Order in Council was made, the Petitioner's Father, *fairly* and for valuable Conſiderations, *purchaſed* the Lands, which had been ſo granted to him as aforeſaid, from the *Indian Natives* in thoſe Parts, and *ſold great Parts of his Family Inheritance*, in *England* and *Ireland*, (which is of above 1500 *l.* a Year) and has *conſtantly poſſeſt* and cleared, ſettled, peopled and cultivated theſe Tracts, ſo granted him; inſomuch, and to ſo great a Degree, that the ſame, altogether, make, without Exception, the moſt flouriſhing Colony in *America* for its Age; the Number of Inhabitants in the 3 lower Counties only, being at leaſt 70,000 Souls.———That the Petitioner's Father had done this, in the Space of about 50 Years, *without one Penny Charge to the Crown or Publick*, and at his own *ſole*, but very great, Expence; having been forced, in order to accompliſh the ſame, to mortgage the *very Lands* granted to him, beſides *ſelling* his Family Eſtate, and to contract *other great Debts*, many of which are to this Hour unpaid, and for ſome of which he lay in Priſon a conſiderable Time; and the Petitioner's Father, or his Family, have never received any Sort of Benefit to themſelves, from this Grant, nor from his Father's great Labours, Toil, Hazard, and Expence, but are, as yet, many Thouſands of Pounds the worſe for the ſame.——That as the Bounds between *Maryland* and the 3 lower Counties had not been exactly delineated and marked out, neither the Petitioners Father, nor themſelves, have been able to raiſe or receive *the Quit Rents* out of the lower Counties, the Lord *Baltimore* ſtill making ſome Pretenſions to Land there, whereby the Petitioners have been hindered from making even further Improvements, and alſo from receiving ſome ſmall Fruit and Benefit from this great Undertaking.———That in 1731, the preſent Lord *Baltimore* drew out, *with his own Hand*, and offered to the Petitioners his own *Propoſals* for an Agreement, in order to accommodate all Differences, and to ſettle the Bounds between *Maryland* and *Penſilvania*, and the three lower Counties; the firſt Clauſe whereof was in the Words following, " There ſhall be a Circle of 12 Miles *Diſtance* drawn from *Newcaſtle*."———That the ſaid Lord *Baltimore*, by thoſe Propoſals, inſiſted to extend and ſtretch his Country, on the North Part, towards and into the Province of *Penſilvania*; and, on the Eaſt Part, towards the 3 lower Counties alſo, in a manner to which the Petitioners conceived he was no way intitled; but, to put an end to all manner of Differences and Diſputes, and that the Petitioners might *begin* to reap ſome ſmall Benefit, they agreed to *every one* of Lord *Baltimore*'s own Propoſals, in the manner he *himſelf* had offered them.——And his *own* Plan of the Country in Queſtion was engraved by his *own* Mathematician, and was printed on the Side of the Articles of Agreement; which Articles were, during 10 Month's Time, under the Conſideration of his own Counſel, Mathematician, Solicitor and other Agents, and were at laſt executed by the Lord *Baltimore* and the Petitioners on the 10th of *May* 1732.——That thoſe Articles contained the fulleſt, plaineſt and *cleareſt* Directions for the actual running and marking out the dividing Lines, and alſo contained *Renunciations* and *Releaſes*, in Fee, from each of the Parties, to the other, of the Lands on the reſpective Sides of the dividing Lines (which Lines were markt out on the Map in the very Margin of the Articles) and of all their Claims and Intereſts therein and thereto, and more particularly the Lord *Baltimore* himſelf conveyed thereby, to the Petitioners, the ſaid *three lower Counties*; and one particular Clauſe was compriſed in the ſaid Inſtruments, in the following expreſs Terms——" That there ſhall be the ſaid Circle, mentioned in the ſaid Charter for *Penſil-* " *vania*, and Deed of Bargain and Sale or Feoffment of *Newcaſtle*, or ſo much thereof as is requiſite, drawn and markt out at the 12 Miles *Diſtance* from the Town of *New-* " *caſtle*, which 12 Miles ſhall be 12 *Engliſh* Statute Miles."——And the Lord *Baltimore* covenanted for *further Aſſurance* and that he would uſe all *friendly Means and Offices*, to the utmoſt of his Power, to *aſſiſt* and *ſupport* that Agreement, and the Rights, Intereſts and Pretenſions of the Petitioners by vertue thereof.——That the Petitioners had good reaſon to hope, when they had concluded that Agreement with the Lord *Baltimore*, at his *own* Requeſt, and upon his *own* Terms alſo, that they ſhould have enjoyed the Benefit of ſo much Labour and Expence, And the Lord *Baltimore* and the Petitioners executed Commiſſions, to 7 Commiſſioners of each ſide, to mark and run out the Lines, deſcribed and mentioned in the Articles.——And the Petitioner *Thomas Penn* went to *Penſilvania*, and, ſome time after, the Lord *Baltimore* went to the Province of *Maryland*.——That, before his Lordſhip's Arrival there, the Commiſſioners, on both ſides, had had ſeveral Meetings to run out the Lines, and the firſt thing in courſe to be done, and the firſt thing directed by the Articles to be performed, being to mark out the *Circle* round the Town of *Newcaſtle*, the Lord *Baltimore*'s Commiſſioners, moſt ſurpriſingly, inſiſted to run a Circle *not* 12 Miles diſtant from *Newcaſtle*, as was agreed in *expreſs* Terms, but ſomething leſs than 2 Miles diſtant therefrom, declaring that they underſtood the Articles to *mean* a Circle whoſe *Periphery* was only 12 Miles, the Diameter of which would be leſs than 4, and conſequently it could not be 12 Miles diſtant, but ſomething leſs than *two* Miles diſtant, from *Newcaſtle*; nor would they *ſeem* to underſtand the Words of the Articles in any other ſenſe, unleſs the Lord *Baltimore* himſelf ſhould certify them to the contrary ———That, as his Lordſhip was expected in *Maryland* in ſome few Months, the Petitioners Commiſſioners readily agreed to adjourn the Proceeding till he ſhould arrive, that he might explain to his own Commiſſioners whether the Words of the Articles [of 12 Miles Diſtance from the Town] meant only *two* Miles Diſtance, or not; not in the leaſt doubting but his Lordſhip, who had ſo *earneſtly* preſſed and obtained that Agreement from the Petitioners, would have inſtantly ſet his Commiſſioners right in their pretended Miſapprehenſion.——But, after his Lordſhip's Arrival, his Commiſſioners *ſtill* refuſed to mark out any other Circle than that they had ſo contended for, although his Lordſhip was ſeveral Months in *Maryland* during their Meetings, and thereupon the Lines were not actually markt out, which was occaſioned *purely and ſimply* by the Miſapprehenſion, or *pretended* Miſapprehenſion, of the Lord *Baltimore*'s Commiſſioners, of thoſe plain Words, and not from any *other* Cauſe whatever.——That the Lord *Baltimore* returned to *England*, and the Petitioner *John Penn* had occaſion to go to *Penſilvania*, (the Petitioner's Affairs there being in a very indifferent Scituation, for want of the ſaid Lines being run out)——That, in a very ſhort time after that the ſaid *John Penn* (who is the eldeſt Brother, and had all the Papers relating to this Affair in his Cuſtody, and had been moſt converſant therein) was gone for *Penſilvania*, the Lord *Baltimore* preſented a Petition to his Majeſty on the 8th of *Auguſt* laſt, without ſo much as naming, or taking the leaſt notice of the Petitioners, or of his own ſolemn Agreement and Conveyance, but ſetting forth the Grant in 1632, and ſetting forth ſome *other* Matters relating to an Iſland called *Kent* (which no manner of way relate to the Matter in Queſtion) and *partially* reciting the Order of Council of *November* 1685, and containing an Allegation, that, if any Part of the Tract mentioned in that Order was inhabited at the time of the Grant to the Lord *Baltimore*, by any Chriſtians (which the Petitioner ſeems to *doubt*, tho' ſo clearly and fully eſtabliſhed) yet, that they were not Subjects of *England*, but of Foreign Nations, and therefore, as the whole Deſcription of that Part of the Peninſula, in the granting Part of the Patent, did not, a ſecond time, contain the Qualification or Reſtriction of *Hactenus inculta* mentioned in the Recital of the Patent, he, by his Petition, behind the Petitioners Backs, prayed that his Majeſty would, by a further Charter, confirm to him the ſaid Lord *Baltimore* his Heirs and Aſſigns, *the whole* of ſuch Part of the Peninſula as was contained within the Limits of the ſaid Charter, notwithſtanding the Reſtriction in the Recital; Thereby, as the Lord *Baltimore* expects, and has in explicit Terms acknowledged, to make a ſubſequent *Grant* to Lord *Baltimore* of theſe *very Lands* which he had ſo lately, and after ſo much Adviſement, conveyed to the Petitioners, which is what the Petitioners could not have expected.——That, throughout the Lord *Baltimore*'s whole Petition, there's nothing which informs his Majeſty of the Length of the Petitioners Poſſeſſion, of the very great Improvements made by their Father (to his own and Family's Ruin) of the Agreement ſo ſolemnly and ſo lately entred into between the Lord *Baltimore* and the Petitioners, or of the Conveyance which himſelf had ſo lately made to the Petitioners of the three lower Counties (and which Matters the Petitioners conceive might have been very proper for his Majeſty's Information) but, on the contrary, *every* thing tending thereto is dropt and concealed, and upon the Face of that Petition it might ſeem as if the Lord *Baltimore* was petitioning his Majeſty only for ſome *ſmall* trifling Tract of Land, which was neither claimed, poſſeſt or improved by any Perſon in the World.——That his Majeſty having been pleaſed to refer the ſaid Petition to the Conſideration of the Lords for Trade, their Lordſhips, in the Courſe of their Office knew of the Petitioners Poſſeſſion and Claim, and from their great Juſtice it was, that the Petitioner *Richard Penn* received (about the 17th of *October* 1734) the *firſt* notice that any ſuch Petition was depending.——That the ſaid Petitioner, without the moſt material Papers, or *any* Inſtructions, having loſt the Aſſiſtance of his former Counſel, did get a new Counſel, who had never been acquainted with this *very intricate* Affair, to attend the Lords for Trade and Plantations upon the 21ſt of *October* laſt, when a *firſt* Hearing was had, and another appointed for the 20th Day of *December* now next, at which former Hearing it was inſiſted by the Lord *Baltimore*'s Counſel, that if your Petitioners ſhould not ſhew a clear *legal* Title to the Lands prayed for, that your Majeſty might be adviſed to make a Grant now, as prayed, to the Lord *Baltimore*, which (as was pretended) could not invalidate the Right of your Petitioners, if any they had; but the Petitioners humbly apprehend, that *ſuch* a Grant might create very great Diſorders and Inconveniencies, and would raiſe the greateſt Trouble and Diſputes imaginable, and the rather from the Difficulty of ſettling a proper Juriſdiction in that Country to try the Rights of

of the Parties.——That the Petitioner *Richard Penn* is intereſted but a *ſmall* matter, in proportion to his two elder Brothers, in the Lands in Queſtion, and they, *alone*, have always had the Cuſtody of the Deeds and Papers relating to this Diſpute (which has depended now above 50 Years, but which it was hoped was ended by the Agreement in 1732) and have had the Management of the Affair; and the preſent Petitioner has not intermeddled, or been acquainted therewith, and is therefore in a moſt defenceleſs State, now in their Abſence.——That the Petitioners Intereſts, and alſo thoſe of all the Inhabitants in the three lower Counties, who hold by Titles derived from the Petitioners Father, and who have laid out their whole Subſtance in improving particular Parcels there, would be affected, by granting the Prayer of the Lord *Baltimore*'s Petition, and the Petitioner prays Leave to inform his Majeſty, that *many Thouſands* of the Inhabitants in the ſaid lower Counties are of the People called Quakers, who have ever behaved as loyal and faithful Subjects, and who, or their Anceſtors, retired thither to ſettle in a Place where they have ever enjoyed Freedom of Conſcience, and who might be deeply affected, in their Temporal and Religious Rights, both, if now to be put under *another* Government.——That, from the firſt Notice the Petitioner *Richard Penn* hath had of the Lord *Baltimore*'s Petition, no Opportunity (in regard of the Seaſon of the Year) hath offered, of informing the two other Brothers in *Penſilvania* thereof.——That his Majeſty has not hitherto been ſtrict upon his Subjects Titles in *America*, where a long Poſſeſſion and real Improvement has been made, and the Petitioners hope, that their very long Poſſeſſion, and very great Improvement, added to the good Title they have, will induce his Majeſty to *quiet* them in their Poſſeſſion.——Therefore pray, that they may not, upon the Petition of the Lord *Baltimore*, be drawn (eſpecially at ſo great a Surprize, and in ſuch an uncommon Caſe) to ſet forth their *Right* to their antient Poſſeſſion, and that his Majeſty would not be pleaſed, at the Lord *Baltimore*'s Requeſt, who has ſo lately conveyed theſe Lands to the Petitioners, to ſtrip the Petitioners (who have not hitherto received any Benefit from the ſaid Grant) to give the Fruit of their great Labour, Hazard and Expence, to the Lord *Baltimore* (who has already ſo very beneficial a Grant) and that his Majeſty will not be pleaſed to grant the Prayer of the ſaid Lord *Baltimore*'s Petition, but to diſmiſs the ſame, and to confirm the Petitioners Poſſeſſion and Title, agreeable to the Limits in the ſaid Deeds of *May* 1732, between the Lord *Baltimore* and the Petitioners, and to indulge the Petitioners with a reaſonable Time to be heard hereon, and to grant the Petitioners all other Relief in the Premiſes.——Co. Off. N° 30.

1734, *Dec.* 19. By *Order in Council*, made upon reading this Petition, it was referred to the Lords of the Committee of Council to conſider the ſame, and report their Opinion thereupon to his Majeſty.—— Co. Off. N° 31.

It is very true, that we did try to get our foregoing Petition alſo referred down to the Lords of Trade; but, as it came in *ſo late*, the Lords of the Council would not refer it thither; Wherefore, and as the younger Brother, in truth, knew nothing of this old Affair, we reſolved to let the Board of Trade (whoſe Inclinations we could very well *gueſs* at) make their Report *ex parte*, upon my Lord *Baltimore*'s Petition: And accordingly, they made juſt ſuch a Report thereon as was expected.

Jan. 16. *Report* from the Lords of Trade to the King, That they had conſidered Lord *Baltimore*'s Petition, and acquaint his Majeſty, that the Lands in Queſtion, commonly called the three lower Counties on *Delaware* River, ſuppoſed to be excepted by the Words *Hactenus inculta*, appear to them to be included *in the Limits* granted by King *Charles* the Firſt to the Lord *Baltimore*'s Anceſtors, *but they have been in the Poſſeſſion of the* Penn *Family for ſeveral Years*, which made it proper for us to communicate the Purport of Lord *Baltimore*'s Petition, and of his Majeſty's Order thereupon, to the Agent for Meſſieurs *John*, *Thomas* and *Richard Penn* the preſent Proprietors of *Penſilvania*, that they might have an Opportunity of laying before us what they ſhould think proper in relation to this Petition, and to their Title to the ſaid Lands.*——And we have been frequently attended by the ſaid Agent, and by Mr. *Richard Penn*, one of the ſaid Proprietors, upon this Subject, who promiſed, from time to time, to lay an Account of their *Title* before us; but, after having kept us in Expectation thereof, for ſeveral Months, they, at laſt, *refuſed to proceed therein*, whereby we are diſabled from offering any thing to your Majeſty, relating to *their* Claim, except what we find by our *Books*, namely, that, for *ſome time* paſt, when any of their Family, Proprietors of *Penſilvania*, have nominated a Perſon for the Approbation of the Crown to be Deputy Governor of that Province, and of the ſaid three lower Counties, they have given *Declarations*, under their Hands and Seals, which are extant in our Office from the Year 1702, to the laſt Nomination in 1733, whereby they acknowledge and agree *that the ſaid Approbation and Allowance ſhall not be conſtrued in any manner to diminiſh or ſet aſide the Right claimed by the Crown to the ſaid three lower Counties.*——Upon their Refuſal to proceed herein, we thought it our Duty to examine the Facts ſet forth in the Lord *Baltimore*'s Petition, and the *Equity* alledged by him as a Ground for his Hopes of your Majeſty's Favour in this Caſe. Whereupon we beg leave to acquaint your Majeſty, that we find the Lord *Baltimore*'s Original Patent bears Date the 20th of *June* 1632, and there is no room to doubt, that the Lands in Queſtion are compriſed within the *Limits* deſcribed in that Grant.——And, with regard to the Interpretation of the Words *Hactenus inculta*, we have examined the antient *Records* of *our* Office, † and find *by an Order of Council* dated the 4th of *April* 1638, which recites the Purport of a former Order dated the 3d of *July* 1633, that one Captain *William Clayborne* having, in behalf of himſelf and Partners, ſet forth in a Petition to the King, that divers Years paſt they had diſcovered and planted upon an Iſland in the great Bay of *Cheſapeak* in *Virginia*, which they had named the Iſle of *Kent*, and that they had likewiſe ſettled another Plantation, upon the Mouth of a River, at the bottom of the ſaid Bay in the *Saſquehanaugh* Country, and that the Lord *Baltimore*, taking notice of the great Benefit that was likely to ariſe to them thereby, had obtained a Patent from his Majeſty, comprehending the ſaid Iſland within the Limits thereof; upon which he beſought his Majeſty to grant him a Patent, under the Great Seal, for the quiet keeping, enjoying and governing of the ſaid Iſland, Plantations, and People, *&c.* Whereupon all the Parties having been fully heard, we find the Senſe of the Council expreſſed in the following Words, "That, upon what then appeared to them, and alſo upon Conſideration of a former Order of that Board, dated *July* 3d 1633, wherein it appeared that the "Difference now in Queſtion, being then controverted, the Lord *Baltimore* was left to the Right of his Patent, and the Petitioners to the Courſe of Law, their Lordſhips, "having reſolved and declared as aboveſaid, the Right and Title to the ſaid Iſle of *Kent* and other Places in Queſtion to be abſolutely belonging to the Lord *Baltimore*, and that no "Plantation or Trade with the *Indians* ought to be, within the Precincts of his Patent, without Licence from him, did, therefore, likewiſe think fit and declare, that no Grant "from his Majeſty ſhould paſs to the ſaid *Cleyborn*, or any others, of the ſaid Iſle of *Kent*, or other Parts or Places within the ſaid Patent, whereof his Majeſty's Attorney and "Sollicitor General are hereby prayed to take notice." But we find that, upon a Diſpute, betwixt the Lord *Baltimore* and the Duke of *York* (for whom Mr. *William Penn* was then Agent) concerning a Tract of Land in *America*, commonly called *Delaware*, wherein we conceive the ſaid three lower Counties to be comprized, the Lords of the Committee for Trade and Plantations reported their Opinion, in *May* 1683, that the Land intended to be granted by the Lord *Baltimore*'s Patent, was only Land *uncultivated* and inhabited by Savages, and that the Land, then in Diſpute, was inhabited and planted by Chriſtians, at and before the Date of Lord *Baltimore*'s Patent, * whereupon they propoſed that the Land, lying between the River and Bay of *Delaware*, and the Eaſtern Sea, on the one ſide, and the *Cheſapeak*, on the other, ſhould be divided into two equal Parts, by a Line from the Latitude of Cape *Hinlopen*, to the 40th Degree of Northern Latitude, and that one half thereof, lying towards the Bay of *Delaware* and the Eaſtern Sea, be adjudged to belong to his Majeſty, and the other half to the Lord *Baltimore*, as comprized within his Charter.—Soon after King *James* the Second's Acceſſion to the Crown, that is to ſay, in 1685, this Report was ordered to be carried into Execution, and was confirmed by the late Queen in 1709.——Whereupon, *as the Senſe of the Crown* and the Lords of the Council, in theſe *ſeveral Deciſions*, ſeems to have been governed by the Acceptation of the Purport of the Words *Hactenus inculta*, we beg leave to obſerve to your Majeſty, that notwithſtanding theſe Words are in the *Preamble*, yet they are not inſerted by way of Reſtriction in the *Body* or Granting Part of Lord *Baltimore*'s Charter, and as the *Authorities* ſeem to us to be *equal* with regard to the Interpretation hitherto given them, we muſt humbly ſubmit it to your Majeſty, whether the Senſe in which they were underſtood by the Privy Council in 1633 and 1638, being *ſo ſoon* after the Date of Lord *Baltimore*'s Patent, when the *real Intention* of the Crown in that Grant might have been more clearly known to the Lords of the Council, or the later Deciſion thereupon, when this Matter was again made the Subject of an Enquiry in Council, ſo long afterwards as 1683 and 1685, ſhould have the Preference? † Thus much hath occurred to us upon the Subject of Lord *Baltimore*'s Pretenſions to the Lands petitioned for, and we *cannot enter into any Examination* of the Claim of the *Penn* Family, becauſe they have declined to proceed therein before us, But, *if it ſhould be determined* that the Right to the Lands in Queſtion ſtill remains in the Crown, we humbly beg leave to offer our Opinion, that the Lord *Baltimore* hath very juſt Pretenſions to your Majeſty's *Favour*, in Conſideration of the great Sums of Money that have been expended by his Anceſtors, in ſettling the Province of *Maryland*, and in bringing the Cultivation of Tobacco to Perfection there, whereby the Trade and Revenue of this Kingdom have gained, and do daily receive very great Augmentations.—— But to whomſoever your Majeſty ſhall be pleaſed to grant the ſaid Lands, *if ſtill remaining in the Crown*, in our humble Opinion proper Care ſhould be taken to preſerve the *Inhabitants* ſettled there, in the full Poſſeſſion of all their *Religious and Civil* Rights.——All which is moſt humbly ſubmitted.——Co. Off. N° 32.

* Mr. *Paris*, in fact, was *not* Agent for Mr. *Penns*, nor Sollicitor for them, neither; though the Lords of Trade *called* him ſo, to warrant their own Proceeding without ſending any Copy of the Petition to the Perſons it *really* concerned.

† They have no Record, nothing but an *unauthentick* Copy, of this *pretended* Order.

* Here they drop the *very Heart and Eſſence* of the real Order.

Ballancing a *Fiction* in 1638, againſt a moſt ſolemn *Reality* in 1685.

1735, *May* 10 A *Report* from the Committee of Council, made upon conſidering the Report made by the Lords of Trade, upon the Petition of *Charles* Lord *Baltimore*, praying for a Grant of Confirmation of ſuch Part of a Peninſula in *America*, as is contained within the Limits of the Charter, granted to his Anceſtor, in the Reign of King *Charles* the Firſt, notwithſtanding the Words *Hactenus inculta*, which are inſerted in the Recital of the ſaid Charter; and alſo made, upon *two* Petitions, the *one* in the Name of *Richard Penn* Eſq; the youngeſt ſurviving Son of *William Penn* Eſq; deceaſed, in Behalf of himſelf and his two elder Brothers *John* and *Thomas Penn* Eſqs; now in *Penſilvania*, ſetting forth their Right to the three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, lying within, and contiguous to, the ſaid Peninſula, and therefore praying to be heard againſt the confirming the ſaid Peninſula, to the Lord *Baltimore*; And the *other*, in the Name of the People called Quakers, in behalf of ſeveral Thouſand Families of Quakers, Inhabitants of the ſaid three Lower Counties, praying alſo to be heard againſt the confirming the ſaid Lands to the Lord *Baltimore*: The Lords of the Committee, this Day, took the ſaid Report and Petitions into their Conſideration, and were attended by Council, as well for the Lord *Baltimore*, as the other Petitioners, and it appearing that on the 10th of *May* 1732, *Articles of Agreement* had been entred into, between the Lord *Baltimore* and the ſaid *John*, *Thomas* and *Richard Penn*, for adjuſting the Boundaries of the Lands granted to them, by their reſpective Charters, which Articles had not been carried into Execution, within the Time thereby limited, But, notwithſtanding ſuch Lapſe of Time, the Validity of the ſaid Articles being inſiſted on, by and on behalf of the ſaid *John*, *Thomas* and *Richard Penn*.——The Lords of the Committee do agree humbly to report to your Majeſty, as their Opinion, that the Conſideration of the ſaid Report and Petitions ſhould be adjourned, until the End of *Michaelmas* Term next, *in order to give an Opportunity to the ſaid* John, Thomas *and* Richard Penn *to proceed in a Court of Equity, to obtain Relief upon the ſaid Articles of Agreement*, ſo inſiſted upon by them, *according as they ſhall be adviſed*; and that after the Expiration of the ſaid Time, either Party ſhould be at liberty to apply to the Committee of Council for Plantation Affairs, as the Nature of the Caſe may require.——Co. Off. N° 33.

May 16. An Order of the King in Council approving the ſaid Report and ordering that the Conſideration of the ſaid Report and Petitions, be adjourned, until the End of *Michaelmas* Term next, that the ſaid *John*, *Thomas* and *Richard Penn* may have an Opportunity to proceed in a Court of Equity, *to obtain Relief* upon the ſaid Articles ſo inſiſted upon by them, according as they ſhall be adviſed; And his Majeſty doth hereby further order, that after the Expiration of the ſaid Time, either Party be at liberty to apply, to the Committee of Council for Plantation Affairs, as the Nature of the Caſe may require.——Whereof all Perſons whom it may concern are to take notice, and govern themſelves accordingly.——Co. Off. N° 33.

June 21. The now Plaintiffs did, in purſuance of the laſt Order, file their preſent Bill againſt the Defendant.

Chap. XVI. Of Matters which have paſt ſince the Filing our preſent Bill.

June 24. BY *Indenture of Releaſe Samuel Preſton* and *James Logan*, the two Survivors of the Twelve Truſtees to whom Proprietary *Penn* had by his Will deviſed all his Lands in *America* upon Truſt, conveyed unto *John Penn* and *Thomas Penn* and their Heirs, all the Lands, *&c.* in *Penſilvania* and in the three lower Counties, *&c.* To hold one Moyety thereof to the Uſe of *John Penn* in Fee, To hold one Quarter part to the Uſe of *Thomas Penn* in Fee, and to hold the other Quarter part to the Uſe of *Richard Penn* in Fee.——Parchment Deed proved by *Daniel Flexney*.

737, *March* 26. By *Indenture of Releaſe enrolled in Chancery*, *Alexander Forbes* and *William Penn* the Grandſon, conveyed the Mortgage which had been made to the ſaid *William Penn* of *Penſilvania*, for ſecuring the 5000 *l.* and Intereſt, unto *Thomas Jackſon* in Fee.——Parchment Deed proved by *Paris*.

March 26. By a Declaration of Truſt enrolled in Chancery dated the ſame Day, *Thomas Jackſon* declared that one Moyety of the Money, paid to buy up that Mortgage, was the Money of *John Penn*, and that the ſaid *John Penn* was intereſted one Moyety in that Conveyance from *Forbes* and *William Penn*, and ſhould have a Conveyance thereof. ——Parchment Deed proved by *Paris*.

March 28. An Entry of the Commiſſion granted by *John*, *Thomas* and *Richard Penn* to Colonel *George Thomas* to be Deputy Governor of *Penſilvania* and the three Lower Counties in—— *Newcaſtle* Records, N° 11. Fol. 104.

April 21. The now Defendant preſented *a Petition* to the King in Council, ſetting forth his Charter, and that he was indiſputably intitled to the Tract called *Maryland*, and likewiſe to another Tract called the three Lower Counties, *which lye contiguous* to *Maryland* on one ſide, and *to Penſilvania* on the other, but are really (as he ſaid) within the *Bounds* of *his* Charter, and therefore he apprehends they are Part of his Province, and as ſuch belonging to *him*.—— That in King *James* the Second's Time, Advantage was taken of the Expreſſion *Hactenus inculta*, and, under that Suggeſtion, *the Crown took the three Lower Counties into their own Poſſeſſion*; That the ſaid three Lower Counties, being then incapable to ſupport a ſeparate Governor, and the Petitioners Anceſtors being ſoon after under ſome legal Diſabilities [Roman Catholicks] the Crown permitted the ſame Perſon who was Governor of *Penſilvania* to act as Governor likewiſe over the three Lower Counties; but, to evidence that this was not done as conſidering them as Part of *Penſilvania*, the Proprietors have, *always*, ſigned a Declaration that it ſhould not prejudice the Right *claimed* by the Crown to the ſaid three Lower Counties; [He forgets that we held the Government the firſt twenty Years without any ſuch Declaration] That the People of *Penſilvania*, in ſettling, have made great *Incroachments* on *Maryland*; To prevent which he, in 1723, made ſuch an Agreement; but they ſtill made Encroachments; to prevent which, he, in 1732, *on the Application and Requeſt of the Proprietors of* Penſilvania, entred into *another* Agreement with *them*; but that Agreement was to be *void* if the Lines were not run by 25 *December* 1733; which Time being expired, and the Lines not run, he's adviſed the ſaid Agreement is null and void; That he has ſince found *he was moſt groſly deceived and impoſed upon*, by the Proprietors of *Penſilvania*, in making that Agreement; inſomuch that, if it had not been void by Lapſe of Time, he's adviſed he ſhould have been relieved againſt the ſame, on the Head of *Fraud* and *Impoſition*; That he preſented a former Petition, to have a confirmatory Grant of the three Lower Counties, and that Petition having been referred to the Lords of Trade, and they having reported thereon, and that Report coming on to be heard, together with another Petition on the part of the *Penſilvania* Proprietors, and they inſiſting on the ſaid Agreement, as ſubſiſting and in full force, the Lords ſuſpended proceeding on his Petition, till the Validity of the Ar-

ticles ſhould be determined, on ſuch Bill to be brought by the Proprietors of *Penſilvania*, and a Bill has been accordingly filed, for a ſpecifick Performance of the Articles, and is now depending. 1. That, during this Diſpute, the Sheriff of *Penſilvania* with 40 Men in Arms entred the Province of *Maryland*, and attackt and took Priſoner Captain *Thomas Creſſap*, one of his Tenants, in *Creſſap*'s own Houſe, and carried him Priſoner to *Penſilvania*. [Note this Fellow had murdered ſeveral Perſons, was got up very far North in the Country, and, to ſcreen himſelf, ſaid he was there in *Maryland*, and he was under Lord *Baltimore*'s Juriſdiction, and my Lord thought proper to patronize and ſupport the Fellow.] 2. That the Proprietors of *Penſilvania* had lately petitioned his Majeſty to approve of Colonel *Thomas* to be Deputy Governor of *Penſilvania* and the ſaid three Counties; That he had no Objections to Colonel *Thomas*'s Perſon, but as the Proprietors of *Penſilvania* had acted ſo, in regard to Captain *Creſſap*, and had no legal Right or Title to the ſaid three lower Counties, He prayed *two ſeveral* things, (which were, at *ſeveral and diſtinct* times, conſidered) *viz.* That no Perſon ſhould be appointed Deputy Governor of the lower Counties upon the Recommendation of the Proprietors of *Penſilvania*, but that, until the Diſpute between them and him touching the Validity of the Articles ſhould be determined, ſome *indifferent* Perſon might be appointed to have the Command over the ſaid three lower Counties, by Commiſſion from the *King*, or, at leaſt, that Colonel *Thomas*, if to be appointed Governor of the three lower Counties, ſhould be ſo appointed by Commiſſion directly from his Majeſty, and *not* by Commiſſion from the *Penſilvania* Proprietors.—— And he likewiſe prayed that Directions might be given for *quieting the Poſſeſſions*, on either ſide, near the Boundaries, till the Matters in Diſpute ſhould be adjuſted here at home.——Co. Off. N° 34.

1737, *April* 21. By *Order in Council* that Petition was referred to the Lords of the Committee of Council, to conſider the ſame, and report their Opinion thereupon to his Majeſty.——Co. Off. N° 35.

May 5. By an Order, made by the Lords of the Committee, upon reading a Report from the Lords of Trade, which was made upon a Petition of the now Plaintiffs, praying the King's Approbation of Colonel *Thomas* to be Deputy Governor of *Penſilvania* and the three lower Counties, and, upon conſidering Lord *Baltimore*'s Petition referred to the Committee the 21ſt of *April* laſt, the Lords ordered that the ſaid Report ſhould be *referred back* to the Board of Trade, together with Lord *Baltimore*'s ſaid Petition, who were to examine into the *whole* Matter, and report their Opinion thereupon to the Committee. And whereas there was alſo laid before the Committee a Reference of the 17th of *March* laſt, of another Petition from the Preſident, Council and Aſſembly of *Penſilvania*, complaining of ſeveral Acts of Violence done, by Perſons acting under Lord *Baltimore*, againſt the People of *Penſilvania*, together with my Lord *Baltimore*'s Anſwer thereto, and ſeveral Papers accompanying the ſame, their Lordſhips likewiſe ordered that all *thoſe* Papers ſhould be tranſmitted to the Lords of Trade, that they *might* examine into the ſame, at the ſame time as they ſhould conſider of the *other* Matters above referred to them, *if they thought fit*; in which caſe they were likewiſe to report their Opinion thereupon, to the Committee, *otherwiſe*, to re-tranſmit the ſaid Papers.——Co. Off. N° 36.

June 3. A *Report* from the Lords of Trade that they had read all the Papers referred to them, and had heard my Lord *Baltimore* and Mr. *Penns*, by their Council, what they had to offer, *with regard to the Appointment* of Colonel *Thomas by the Proprietors of* Penſilvania, for the Government of *Penſilvania*, and the *three lower Counties*; upon which they report, "*That from the Time that the Province of* Penſilvania, *and the* 3 *lower Counties were poſſeſt by the late* William Penn, *they have been governed either by the Proprietor*, "*or by Deputies appointed by him and his Succeſſors with the Approbation of the Crown; and upon every Appointment of a Deputy Governor the Proprietors have conſtantly* "*ſigned an Inſtrument declaring under their Hands and Seals that his Majeſty's Approbation and Allowance of the Deputies ſo appointed by them for the Government of the* 3 "*lower Counties ſhall not be conſtrued in any manner to diminiſh or ſet aſide the Right claimed by the Crown to the ſaid* 3 *lower Counties**; *what this Right claimed by the Crown* "*is, as alſo the Claim made by my Lord* Baltimore, *appears very diſtinctly ſet forth in a Report to his Majeſty of* 21 October 1717. *from Sir* Edward Northey *and Sir* William "Thompſon, *then Attorney and Sollicitor General, and of which we take leave to annex a Copy.*" The Lords of Trade further report, that there having been *Diſputes*, between Lord *Baltimore* and the Proprietors of *Penſilvania*, touching Boundaries, an *Agreement* was made, between them, 10 *May* 1732, relative thereto, and not being carried into Execution, the Proprietors of *Penſilvania* had filed their Bill in Chancery againſt Lord *Baltimore* for a ſpecific Performance thereof; "*Which Diſpute being yet de-* "*pending in the ſaid Court, we don't think it proper to adviſe any Alteration in the uſual manner of appointing the Deputy Governor of the ſaid Three Lower Counties.*" And the Lords of Trade re-tranſmitted the Petition from the Preſident, Council and Aſſembly of *Penſilvania*, *relating to Boundaries*, and other Papers on *that* Subject, but propoſed, in order to *prevent Diſturbances* for the future, that the King ſhould enjoin the reſpective Governors to preſerve *Peace* and good Neighbourhood.—— Co. Off. N° 37.

* This is true from 1702 to this Time; but 'twas otherwiſe, from 1682 to 1702.

June 15. The Defendant put in his *Anſwer* to our Bill, wherein, by the way, he now ſwears that the Lower Counties are by no means contiguous to *Penſilvania*, for that one is of the one Side, and the others on the other Side of *Delaware*. *A wonderful Change ſince his Petition of the 21ſt of* April *laſt, not two Months before!*

July 21. Lord *Baltimore* did not at all like the Report of the Board of Trade in Favour of our Nomination, wherefore he petitioned the King in Council againſt it; and inſiſted that by Sir *Edward Northey*'s and Sir *William Thompſon*'s Report of 1717, it clearly appeared Mr. *Penns* had no *legal* Right or Title to the lower Counties; and that on 16 *Jan.* 1734. the Lords of Trade had made ſuch an [*ex parte*] Report in his Favour; ſo that the Petitioner may very ſafely affirm that there has never yet been any *one* Determination in Favour of the Right claimed by Mr. *Penns* to the ſaid 3 lower Counties, and he apprehends it is impoſſible for them to make out any *legal* Right or Title thereto; whereas it appears by the ſaid [*ex parte*] Report, that the ſame are *included* within the *Limits* of the *Maryland* Charter; that tho' the ſaid Counties have been, for many Years paſt, under the Government of the ſame Perſon as was appointed Governor of *Penſilvania*, yet all thoſe Governors (ſave the laſt) were ſo appointed while his Anceſtors were under legal Diſabilities, being *Roman* Catholicks, and when the Government of *Maryland* was in the Hands of the Crown, or during the Petitioner's Infancy, therefore hopes *thoſe* Inſtances ſhall not be uſed as an Argument now, when thoſe Diſabilities are removed; *and the rather, becauſe ſuch Appointments have*, in the Progreſs of the Diſputes with Mr. *Penn, been conſtantly made uſe of, and inſiſted on, as Evidence of their Right, in Oppoſition to that claimed and inſiſted on by the Petitioner*; and, as ſuch Approbation, *at this Juncture*, and *pending the Diſpute* now carrying on in Chancery, *would*, in all Probability, *be inſiſted on by them, as a further Evidence of their Right, not only againſt* the Petitioner, but againſt the King too, which might be of great Diſadvantage to the Petitioner*——That the Petitioner does not deſire the Government of the ſaid Counties to be put into the Hands of any of his Nomination; all that he deſires being, that they may be under the Government of an *indifferent* Perſon, till the Diſputes between Mr. *Penns* and him, in relation thereto, are finally ſettled and adjuſted; and that, whoever the Perſon is, he may be appointed by Commiſſion directly from *his Majeſty*.—— Therefore prays the King to reject Mr. *Penns* Nomination of Colonel *Thomas* to be Governor of the ſaid lower Counties, and that the King will pleaſe to appoint Colonel *Thomas*, or ſuch other as He ſhall think fit, to be Governor of the ſaid Counties, by Commiſſion *from his Majeſty*, till the ſaid Diſputes ſhall be finally determined between him and Mr. *Penns*; and that this Petition may come on to be heard at the ſame time with his former Petition, and the Report of the Lords of Trade made thereon.—— Co. Off. N° 38.

* After all theſe Apprehenſions, when this Petition was appointed to be heard, Lord *Baltimore* would not ſtand a Hearing; but prayed, and had Leave, to withdraw this Petition, that is, in effect, not to proceed on it, for the Petition ſtill *remains* in the Office.

July 21. This Petition was by *Order in Council* referred to the Lords of the Committee of Council to conſider the ſame and report their Opinion thereon.——Co. Off. N° 39.

Feb. 4. A *Report from the Committee* of Council, That they had appointed *a Day* to conſider the two Petitions of Lord *Baltimore*, referred the 21ſt of *April* and 21ſt of *July*, relating to the *Appointment* of the Deputy Governor, but, *in the mean time*, and before the Conſideration thereof, the Agent for Lord *Baltimore* attended the Committee, and ſignified to them that there was a Suit now dependiug in Chancery between the Petitioner and the Proprietors of *Penſilvania*, for determining *the Right* to the ſaid 3 lower Counties, and that the Petitioner, *upon further Conſideration*, was willing to wait, till the ſame ſhould be determined, and did not intend to make any Oppoſition to the Nomination of Colonel *Thomas*, and therefore *prayed to* be permitted to *withdraw* his ſaid Petitions.——The Lords of the Committee thereupon report that his Majeſty may be pleaſed to permit and allow the Petitioner to withdraw his ſaid two Petitions accordingly.——Co. Off. N° 40.

Feb. 6. *By Order in Council* made upon reading that Report, his Majeſty in Council approved that Report, and ordered that the Lord *Baltimore* be *allowed* to withdraw his ſaid two Petitions accordingly.——Co. Off. N° 40.

Feb. 7. Being the very next Day, the Lords of the Committee made a *further Report*, upon Mr. *Penns* Nomination of Colonel *Thomas*, that his Majeſty might be pleaſed to approve of Colonel *Thomas* to be Deputy Governor of *Penſilvania*, and the 3 lower Counties of *Newcaſtle*, *Kent* and *Suſſex* in the Manner, and upon the Conditions propoſed by the Lords of Trade, [which were in the ſame Words as the other former Inſtances] and Colonel *Thomas*, being then in the Leeward Iſlands, they propoſed he might qualify himſelf, and give the Security, before the Governor or Commander in chief in one of the Leeward Iſlands.——Co. Off. N° 41.

Feb. 15. By *Order in Council* his Majeſty approved that Report, and order'd according to what was thereby propoſed.——Co. Off. N° 42.

Note, An Entry of this laſt Order in the *Newcaſtle* Records, N° 11. Fol. 106.

1738, *May* 4. The Lords of the Committee of Council made a *Report* to the King in Council, upon the Petition of the Preſident, Council and Aſſembly of *Penſilvania*, and likewiſe ſome croſs Petitions from *Maryland*, which had been referred to their Lordſhips on 17 *March* 1736. and 21 *July* 1737, complaining, on *both* Sides, of Diſorders and Outrages, committed on the Borders of *Maryland* and *Penſilvania*; and ſtating that they had made a former Report on the 29 of *July* 1737, and that his Majeſty had thereupon made a (temporary) Order on 18 *Aug.* 1737; That, ſince that Time, ſeveral freſh Petitions had come in, from *Maryland* and from *Penſilvania*, complaining of freſh Diſorders, and that Mr. *Penns* had petitioned for the King's further Pleaſure to be declared relating to the ſaid Order of 18 *Aug.* 1737; That the Lords of the Committee had on the 23d *Feb.* laſt proceeded to take all the Papers relating to the ſaid Complaints made by each of the Provinces into Conſideration, and were attended by Council on both Sides, and likewiſe by the Proprietors of *both* Provinces, and the Counſel deſiring that Time might be allowed the Proprietors, to confer together, in order to come to ſome *Agreement* amongſt themſelves, that ſo the *Peace* of both Provinces might be preſerved, till ſuch time as the Boundaries could be finally ſettled, the Lords of the Committee had complyed with their Requeſt, and being, this Day, attended by all Parties, the Counſel acquainted the Committee that the Proprietors, of each Province, had accordingly met and agreed to the there following Propoſitions; to which Propoſitions the Proprietors of each Province had ſignified their Conſent, before the Committee, and declared their Readineſs to carry the ſame into Execution, if his Majeſty ſhould be pleaſed to approve thereof; and the Committee, conſidering that this Agreement might be a proper Expedient for reſtoring *Peace* and Tranquillity between the ſaid Provinces, and for preventing any the like *Diſturbances* for the future, did therefore agree to lay the ſame before his Majeſty for his Royal Approbation.——Co. Off. N° 43.

Note, So much of that Agreement as any way relates to the preſent Point was, fixing between the (meer) Provinces of *Penſilvania* and *Maryland* a Line for *Temporary Juriſdiction*, to be exerciſed in thoſe reſpective Provinces. And as the Articles of 10 *May* 1732, had made the North Bounds of *Maryland*, and the South Bounds of *Penſilvania*, to be juſt 15 Miles South of *Philadelphia*, ſo, to come as near to it as might be, (but not to confirm it) it was agreed that the proviſional and temporary Limits, till the Bounds ſhould be finally ſettled, ſhould be, on the *Eaſt* Side of *Suſquehannah* River, 15 Miles and one Quarter South of *Philadelphia*, and on the *Weſt* Side of *Suſquehannah* River, 14 Miles and 3 Quarters South of *Philadelphia*; but this, to be *without Prejudice to either* Party; and it was alſo agreed that the reſpective Proprietors ſhould receive the Quit-Rents due on their own Sides of that temporary Line; and the Order of Council of 18 *Aug.* 1737, (which had laid *Reſtrictions* upon Mr. *Penns* as to their granting out of Lands in the *lower Counties*) was agreed to be *diſcharged*.

May 25. By his Majeſty's *Order in Council* made upon reading the ſaid Report, in order to preſerve Peace and Tranquillity between the ſaid Provinces, and to prevent any the like Diſturbances for the future, his Majeſty in Council approved of the ſaid Agreement, entered into between the Proprietors of the ſaid reſpective Provinces, and ordered that the Proprietors of the ſaid reſpective Provinces of *Maryland* and *Penſilvania*, ſhould cauſe the ſaid Agreement to be carried into Execution; whereof the ſaid Proprietors, and all others whom it might concern, were to take notice, and govern themſelves accordingly.——Co. Off. N° 43.

1740, *Jan.* 29. By *Bargain and Sale enrolled Thomas Jackſon* re-conveys the Premiſſes which had been mortgaged orignally to *William Penn* for 5000 *l.* unto *John* and *Thomas Penn* and their Heirs. As to one Moiety to the Uſe of *John Penn* and his Heirs in Fee, as to one Quarter Part to the Uſe of *Thomas Penn* and his Heirs in Fee, and as to the other Quarter Part to the Uſe of *John* and *Thomas Penn* in Fee, but in Truſt for *Richard Penn*, his Heirs and Aſſigns for ever.——Parchment Deed proved by *Paris*.

1740. *A written Map* made of Part of *Penſilvania*, and of the three Lower Counties, *&c. extremely material* for the underſtanding of this Caſe, which Map divers Witneſſes, Surveyors in *other* Provinces as well as in *Penſilvania*, have been examined and have ſpoken to, *viz. Jacob Hewling*, *Thomas Miles*, *Thomas Noxon* and *Benjamin Eaſtburn*.——Map in a large marbled Paper Cover—Of which there is a *printed* Copy at the Beginning of this Brief (ſay *Book*.)

1742, *May* 28. *A Releaſe* from *Letitia Aubrey* (the Daughter of Proprietary *William Penn*) to the ſaid *John*, *Thomas* and *Richard Penn* of the 10,000 Acres left her by her Father, and of *all* Claims by Virtue of his Will.——This was executed in order to make her an *unexceptionable* Witneſs, ſhe being examined 3 or 4 Days after—Parchment Deed proved by *Paris*.

Chap. XVII. Containing No Proof, but *a Caſe* ſtated to, and *the Opinions* of, Sir *Clement Wearg*, Mr. (*now Lord Chief Juſtice*) *Willes*, and Sir *Philip Yorke*, (*now Lord Chancellor*) thereon, relating to the *Conſtruction* of Lord *Baltimore*'s *Charter*, and his *Bounds*.

MARYLAND, in the Grant from King *Charles* the Iſt to the Lord *Baltimore*, dated the 20th of *June* 1632, is thus deſcribed, *viz.* "That Part of a Peninſula, lying "in the Parts of *America*, between the Ocean on the Eaſt, and the Bay of *Cheſopeake* on the Weſt, and divided from the other Part thereof by a Right Line, drawn "from the Promontory or Cape of Land called *Watkins*'s Point (ſcituate in the aforeſaid Bay near the River *Wighto*) on the Weſt, unto the main Ocean on the Eaſt, and, "between that Bound on the South, unto that Part of *Delaware* Bay on the North, which lyeth under the 40th Degree of Northern Latitude from the Equinoctial, where "*New England* ends. And all that Tract of Land, between the Bounds aforeſaid, that is to ſay, paſſing from the aforeſaid Bay called *Delaware* Bay, in a Right Line, by the "Degree aforeſaid, unto the true Meridian of the firſt Fountain of the River *Potowmeck*, and, from thence, trending towards the South, unto the farther Bank of the aforeſaid "River, and following the Weſt and South ſide thereof, unto a certain Place called *Cinquake*, ſituated near the Mouth of the ſaid River, where it falls into the Bay of *Cheſopeake*, and "from thence, by a ſtraight Line, unto the aforeſaid Promontory or Place called *Watkins Point*."

Penſilvania,

Penſilvania, in the Grant from King *Charles* the Second to *William Penn* Eſq; dated the 4th of *March* 1680, is thus deſcribed, *viz.* " All that Tract or Part of Land in " *America*, with all the Iſlands therein contained, as the ſame is bounded on the Eaſt by *Delaware* River, from twelve Miles Diſtance Northward of *Newcaſtle* Town, unto the " 43th Degree of Northern Latitude, ifthe ſaid River doth extend ſo far Northward, but if the ſaid River doth not extend ſo far Northwards, then, by the ſaid River ſo far as " it doth extend, and from the Head of the ſaid River, the Eaſtern Bounds are to be determined by a Meridian Line, to be drawn from the ſaid River unto the 43th Degree; " The ſaid Lands to extend Weſtward five Degrees of Longitude, to be computed from the ſaid Eaſtern Bounds, and the ſaid Lands to be bounded to the North by the " Beginning of the three and fortieth Degree of Northern Latitude, and on the South by a Circle drawn at 12 Miles Diſtance from *Newcaſtle*, Northwards and Weſt- " wards, unto the Beginning of the 40th Degree of Northern Latitude, then, by a ſtraight Line, Weſtward, to the Limits of Longitude abovementioned."

The Grant of *Maryland* begins with that Part of a Peninſula lying between the Ocean on the Eaſt (by which moſt of it is bounded) and *Cheſopeake* Bay on the Weſt: The Extent of the Province Northward is to that Part of *Delaware* Bay, which lyeth under the 40th Degree of Northern Latitude, and the Northern Boundary of it is a Right Line paſſing from *Delaware* Bay by the Degree aforeſaid. ——In this Deſcription, *Delaware* Bay is twice mentioned as the Limits of *Maryland*; but neither *Delaware* River, which falls into the Bay of that Name, nor *Saſquehannah*, the great River which falls into the Head of *Cheſopeake* Bay, are mentioned on any account; but the Peninſula is confined to the Ocean and Bay of *Delaware* on the Eaſt, and *Cheſopeake* Bay on the Weſt, which two Bays, bending in, at their Heads, towards each other, truely form a narrow Iſthmus or Neck of Land terminating the Peninſula there.

The Geographical Maps of thoſe Parts, extant at the Time of the Grant for *Maryland*, from whence there are very ſtrong Arguments to prove the Deſcription of that Province was taken, placed 40 Degrees very near to the Head of *Cheſopeake* Bay and the aforeſaid Iſthmus there.

From all which it appears where the Northern Boundary of *Maryland* was, by the Grant, underſtood to be placed, *viz.* at that Iſthmus or Northern Part of the Peninſula, near the Heads of the *Cheſopeake* and *Delaware* Bays, and not far from the Town built on *Delaware* by the *Dutch*, ſince called *Newcaſtle*.

Penſilvania, by the Grant for it, is bounded on the South by a Circle drawn at 12 Miles diſtant from *Newcaſtle* Northward and Weſtward, that is, by the Northward and Weſtward Parts of that Circle, unto the Beginning of the 40th Degree of Northern Latitude, then, by a ſtraight Line, *&c.* which ſeems perfectly to agree with the above-mentioned Bounds of *Maryland*.

In the Years 1681 and 82, great Numbers of ſober and induſtrious People, with their Families and Eſtates, by Favour of that Grant, went over to *Penſilvania*, and there laid out their Subſtance in ſettling themſelves, and making large Improvements, beginning at the Southern Bounds of the Province on *Delaware River*, as thoſe Bounds are above deſcribed.

And about the Year 1683, the Lord *Baltimore*, then in *Maryland*, cauſed a Line to be run and marked out, 6 or 8 Miles more Northerly than the above-mentioned Bounds, as his *Northern* Boundary at *that* time; Upon which he demanded of the Proprietor of *Penſilvania*, all the Lands to the Southward of it, as by the Copy of his Commiſſion annexed, appears; and *Penſilvania*, to avoid Contention, has never, *hitherto*, made any Grant or Settlement to the Southward of that Line.

But in the Year 1714, by a large Aſtronomical Inſtrument ſent over on purpoſe, and by another ſince that time, the Lord *Baltimore* cauſed Obſervations of the Latitude to be made, by which they extend the Claim of *Maryland* not only beyond the *Peninſula* and *Iſthmus*, the *Bays* of *Delaware* and *Cheſopeake*, and the Line run by the preſent Lord *Baltimore*'s Anceſtor, but, paſſing the Iſthmus, they carry it up the Rivers *Delaware* and *Saſquehannah* (which exceedingly *diverge* in their Courſes) ſo far as to take in the moſt valuable Improvements of all *Penſilvania*, alledging that the true Poſition of the 40th Degree will fall ſomewhat *above* the Town of *Philadelphia*, and that they are not to be confined to the Deſcription of the *Peninſula* and *Bay* of *Delaware*, tho' theſe are *viſible Places on the Earth*, which may always be certainly known, while Aſtronomical Obſervations are *always* ſubject to be controverted; but that their Grant will extend as far as the ſaid Latitude of 40, where ever that *ſhall be found* to fall, by Obſervations ſkilfully taken.

Now, allowing that what is moſt commonly underſtood by the 40th Degree, ſhould, by more accurate Obſervations at this time, be found to reach *more Northerly* than was ſuppoſed by the reſpective Grants.

Quære, Whether the Lord *Baltimore* has, or can claim, a Right to any Lands lying to the *Northward* of the *Peninſula*, and of the *Bays* of *Delaware* and *Cheſopeake*, and beyond the Bounds, as underſtood *at the time* of his Grant, within the Grant of *Penſilvania*, now ſettled above 40 Years?

This Queſtion depends upon the *Intent* of the King, with regard to the Boundaries of *Maryland*, and it ſeems to me, by the Boundaries deſcribed in the Charter, that the King intended *Maryland* ſhould *not extend* North *beyond* Delaware *Bay*, which was *then* thought to reach to the 40th Degree of Northern Latitude, and ſo deſcribed by the Charts of thoſe Times; and tho', upon a more exact Obſervation, it ſhall be diſcovered that the Bay don't reach ſo far North, yet, I apprehend, the *North Part of the Bay* was intended to be the North Boundary of *Maryland*: This is confirmed by the ſubſequent Grant of *Penſilvania*, and by the Line drawn by the Anceſtors of the Lord *Baltimore*. *C. Wearg*, 11 *April*, 1724.

I am of opinion, that Lord *Baltimore* has *no Right* to any Lands lying Northwards of the *Iſthmus* of the Peninſula, beyond the *Bays* of *Delaware* and *Cheſopeake*: The Limits of *Maryland* are, by the Grant of King *Charles* the Firſt, *plainly fixed there*; And by the ſubſequent Grant to Mr. *Penn* by King *Charles* the Second, 'Tis likewiſe *manifeſt*, that *Penſilvania* was to extend as far Southward as the *Beginning* of the ſaid Iſthmus and Bays, except only that little Compaſs of Ground round about *Newcaſtle*.——The *Alteration of the Latitude*, which gave occaſion for this Diſpute, ſeems to me to be *of no conſequence* at all, ſince the Latitude was mentioned in Lord *Baltimore*'s Grant for *no other* purpoſe, but to deſcribe that Tract of Land which was *then* eſteemed to lie under the 40th Degree of Latitude. To aſcertain the Bounds, therefore, it muſt be conſidered where the 40th Degree of Latitude was fixed *at the time of the ſaid Grant*, and tho' that appears to be *miſtaken* by ſome *latter* Calculations, the Caſe will *not* be altered thereby, ſince that Tract of Land which, *at the time* of the ſaid Grant, was *eſteemed to be* in that Degree of Latitude, *and not any Point in the Heavens*, was to be the Mark of the Boundary betwixt *Penſilvania* and *Maryland*; beſides, as *neither of the Rivers* of *Delaware* or *Saſquehannah* are mentioned in Lord *Baltimore*'s Grant, and as it *expreſsly appears* by that Grant, that *Maryland* was *not to extend* Northwards beyond the *Iſthmus* of the Peninſula, *for thoſe Reaſons, likewiſe, 'tis plain to a Demonſtration*, that there is *no colour* for extending the Bounds of *Maryland* Northwards, as Lord *Baltimore* endeavours to do. *J. Willes*, 28 *Feb.* 1723.

I am of opinion, that the Boundaries, deſcribed in the Lord *Baltimore*'s Grant, muſt *now* be underſtood in the *ſame manner* as they were *at the time of the making* thereof, and conſequently, that in caſe the Extent of *Maryland* to the North ſhould be taken to be to the 40th Degree of Northern Latitude, yet, that 40th Degree muſt be taken to be according to the Calculation allowed *at that time*, and as it was *then* laid down in *Maps and Charts*, even tho' that Calculation was really *erroneous*. And what the rather convinces me that Lord *Baltimore* can claim *nothing* to the *Northward of the Peninſula* is, that the Deſcription is not, *to the 40th Degree* of the Northern Latitude, but *to that Part of* Delaware *Bay which lies under the 40th Degree* of Northern Latitude. Now, if *Delaware* Bay be rightly laid down in the Plans laid before me, no Part of it comes near to that Line, where, by their late Obſervations, they would fix the 40th Degree of Northern Latitude, and therefore *that could not be* the Northern Boundary intended by the Grant. *P. Yorke*, 23 *May* 1724.

We ſhall find ſome trifling *Surveyors*, Dependents on the Lord *Baltimore*, taking upon them to *expound* the King's Charter, very *badly* as *Lawyers*, and if poſſible, *worſe* as *Mathematicians*, by and by. Againſt whoſe *Opinions* the foregoing will abundantly ſerve.

And now we come to the *Depoſitions* of Witneſſes on both Sides.

Depoſitions for the Plaintiffs, with ſome Obſervations thereon.

NOTE, The Proofs being abundantly long, the *common* Proof of the Execution of Deeds, or of Copys of Papers from the Chapel of the Rolls, Council Office, or Board of Trade, *&c.* which are not attended with ſome *ſpecial* Circumſtances, are omitted *here*; having a Scheme in my Hand, ready to turn at the Hearing, inſtantly, to the Proof of any *ſuch* Papers as thoſe, if demanded.

Note, As often as we quote the Depoſitions of

* *John Anderſon*,
* *John Garetſon*,
* *James Steel*, who was one of our Commiſſioners to execute the Articles, and our Receiver General of Quit-Rents.
* *Wooman Stockley*,
* *William Till*,

* *William Waples*, there is this Mark * ſet before their Names, which is, to denote that the Defendant has *croſs examined* them as to their being *intereſted* only, which they have *ſo far* acknowledged, as to ſay they hold Lands in the three Lower Counties, under *the Plaintiffs*; altho' ſome of them ſay, they don't believe themſelves concerned in the Event of the Cauſe, notwithſtanding that; their croſs Examinations are at the very *Beginning* of the Brief of the Defendant's Depoſitions, where you'll ſee how far their Concern leaves them good Witneſſes, or not. If you think them all exceptionable, we have other Witneſſes, to the Points they ſpeak to; and, rather than fail, the Defendant, himſelf, has proved *every* Fact for us. The Perſon we would leaſt chooſe to loſe is *James Steel*, who is one of our Witneſſes that prove our receiving of Quit-Rents, tho' that *alſo* the Defendant has likewiſe proved for us.

1ſt Branch, relating to the *firſt Diſcovery* of the Peninſula, and the *firſt Maps* publiſh'd thereof, before the Year 1632, and how many *ſeveral Editions* of Captain *Smith*'s Book had been publiſh'd *before* that Year.

jamin Eaſtburn, (Surveyor General of *Penſilvania*, aged 44.) [*Lib.* C. *fo.* 678. *Int.* 2. *fo.* 679.] is acquainted with *ſome Parts* of the *Peninſula*, which ſhoots out, Southerly from the Main Land or Continent of *America* into the Ocean, and which lies between *Weſt New Jerſey* and *Cheſopeak* Bay——Became acquainted with the *Eaſtern* Parts thereof, lying on *Delaware* Bay and River, and Part of the Ocean, from *Certificates and Drafts of Surveys* of Lands made therein under the *Penſilvania* Proprietors; which Certificates and Drafts were returned into the *Surveyor General's Office* in *Penſilvania*, which Office he has enjoyed for ſeven Years paſt;——Became acquainted with the *Northern* Parts of the ſaid Peninſula, by *travelling* and making *Perſonal Obſervations there*,—Has acquired his Knowledge of the *other* Parts of ſaid Peninſula, by reading and *ſtudying Books* and Maps of Geography, and Accounts of Voyages and Diſcoveries of Lands and Territories in *America*.——Such Maps, Books and Accounts have been his *Study* for about *twenty* Years.——That in 1624, Captain *John Smith* publiſhed a Book, containing an Account of ſaid Peninſula, and ſeveral adjacent Parts, with a *Map* deſcribing the ſame.——Which Book and Map he believes, was the *firſt* particular Account and Deſcription of thoſe Parts, publiſhed *by any Engliſhman*.——Has look'd on that printed Book, exhibited to him, the ſame is the Book by him before mentioned, and which he believes, is *well known* amongſt *Hiſtorians*, *Geographers* and *Mathematicians*.——Likewiſe believes that the *Map* between Fol. 40. and 41. of that Book, in which Map there are theſe Words; (*Diſcovered and deſcribed by Captain* John Smith 1606.) is *well known* to *Hiſtorians*, *Geographers* and *Mathematicians*.——And the ſaid *Book and Map* are generally reputed and eſteemed to be publiſhed by ſaid *Smith* in or about 1624.——Says he *neither* knows nor has *heard*, that *any other* Book or Map, deſcribing the Parts aforeſaid, were printed or publiſhed, *by any* Engliſhman, before the Month of *June* 1632.

mes Logan, aged 66. [*Lib.* B. *fol.* 76. *Int.* 2. *fol.* 78.] is well acquainted with the Peninſula, lying between *Weſt New Jerſey* and *Cheſopeak Bay*; became acquainted with it, *by ocular Views*, by *Maps*, and by *reading* Books of Geography and Hiſtory. Has conſulted and conſidered *Maps*, *Books* of Geography and *Hiſtory*, and Accounts of *Voyages*, at times for 30 Yeaas paſt. From his Reading and Obſervation believes Captain *John Smith*, the Author of *Smith*'s Hiſtory of *Virginia*, printed in *London* 1624, was *the firſt Engliſhman* that printed *any* Map and Account of the ſaid Peninſula, and the Territories adjacent thereto. That he has look'd on the ſaid Book, now produced, and believes it is *well known* amongſt Hiſtorians, Geographers and Mathematicians, and was the Foundation of *Beverly*'s Hiſtory of *Virginia*. Has viewed the *Map* of *Virginia*, between Fol. 40. and 41. of the ſaid Book, in which Map it's ſaid that *Virginia* was *diſcovered* and *deſcribed* by the ſaid Captain *Smith* in 1606. And believes the *ſaid Map is likewiſe well known* amongſt Hiſtorians, Geographers and Mathematicians; and which Book and Map he believes, are *generally* eſteemed to be publiſh'd by Captain *Smith*, about the Time in the Title-Page mentioned; and are, as he believes, of *unqueſtionable Credit amongſt all learned Men*; has neither known, ſeen, or been acquainted with, any *other* printed Hiſtory, Map, or Deſcription of the ſaid Peninſula, done, or reputed to be done, by any *Engliſhman or Foreigner*, that were extant ſo early as *June* 1632. And believes there is *not any other*, becauſe, on diligent Search of *Mercator*'s, *Janſen*'s, and *Bleau*'s Atlas, he could never diſcover any.

. John Paris, [*Lib.* A. *fol.* 195. *Int.* 26. *fol.* 312.] has diligently enquired after the moſt ancient printed Map of *Virginia*, or the Places in Queſtion, that had been made, or was reputed to have been made, *by any Engliſhman*; and the Account he obtained was, that Captain *Smith*'s Account of *Virginia*, and his *Map* thereof, were the *firſt and beſt Accounts of the Diſcovery*, and *his Map the earlieſt printed Map*, of thoſe Parts, that were ever printed by *any Engliſhman*; whereupon, made very diligent Search, to find out *as many ancient Editions thereof*, as he could; and found the ſaid Map, in ſome printed Accounts, ſaid to be of Captain *Smith*'s, and bearing Date ſeverally in the Years 1612. 1624. and 1625. Saith, the *Quarto bound Book* produced and lettered (*Weſt-Indies* B.) he found in a Collection of Books, which he is informed and believes, was heretofore given by Dr. *White Kennett*, Biſhop of *Peterborough* deceaſed, to the Society for the Propagation of the Goſpel in foreign Parts, for an *American* Library for the ſaid Society; and out of which Collection or Library he borrowed that Quarto Book, which contains *ſundry* printed Tracts, relating to ſeveral Parts of the Continent of *America*, bound up together; the *firſt* whereof is entitled, A Map of *Virginia*, with a Deſcription of the Country, *&c.* written by Captain *Smith*, ſome time Governour of the Country, and mentions to have been printed at *Oxford* by *Joſeph Barnes* 1612; at the End of which Tract, in the ſaid Quarto bound Book, there

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is a printed *Map* of *Virginia*, which is therein ſaid to be *diſcovered and deſcribed* by Captain *John Smith*; ſaith that in his Searches, he, at ſeveral Bookſellers, met with a *thin Folio Edition* of a Work, which appeared to this Deponent to be an *ancient* Book, and which was entitled, The General Hiſtory of *Virginia, New England*, &c. alſo the *Maps* and Deſcriptions of all thoſe Countries, *&c.* divided into 6 Books, by Captain *John Smith*, ſometime Governour in thoſe Countries, *&c.* and Admiral of *New England*, *London* printed for *Michael Sparkes* 1624; before the Page (41) of which thin Folio, there is the *like printed Map* of *Virginia* (to this Deponent's belief) with that in the ſaid beforementioned Quarto Book of 1612; and eaſily finding *many* printed Copies of the ſaid *thin folio Book and Map*, did, therefore buy two (if not three) of the ſame, one of which is now produced, having the Letters *J. S.* ſtamp'd into the Cover. And alſo found out *another very large Collection* of Diſcoveries and Voyages, contained in a Work ſaid to be printed in 1625, which conſiſts of *ſeveral thick Volumes in Folio*, and is commonly called *Purchas Pilgrims*; in one Volume of which laſt mentioned Work now produced and lettered (*Purchas Pilgrims* Vol. IV.) between Pages 1690 and 1691, another *like printed Copy* of the ſaid Captain *Smith*'s Map, appears to this Deponent to be fixed; and which Map in *Purchas*'s, and in Captain *Smith*'s *thin Folio* Hiſtory, this Deponent believes are both printed off from one Plate, which believes not only from the great Similitude of the two Copys, but alſo from an Obſervation upon *both* the ſaid Maps which he particularly mentions, beſides which *three* Editions of 1612, 1624, and 1625, the Deponent upon his beſt Obſervation, believes that the Book of *Ogylby*'s of 1671, (before mentioned by, and produced to the Deponent) does about Fol. 192, contain a *Map* of *New Virginia*, likewiſe drawn from, and nearly correſpondent to, the ſaid *Smith*'s Maps, in the Out-Lines of the Country, and Places therein contained.

2ᵈ Branch to prove my Lord *Baltimore*'s own printed Book and Map, and Deſcription of *Maryland*, and how far he *then* claimed; publiſhed in the Year 1635, within three Years after the Date of his Charter, and ſoon after he had landed in, taken Poſſeſſion of, and ſettled his Province of *Maryland*.

Dr. *Thomas Stack*, [*Lib.* A. *Fol.* 41. *Int.* 45. *Fol.* 42.] That he has looked upon the *Book* or Collection of Tracts, bound up all together, now produced, which is a Volume of about 19 various Tracts, on different Subjects, ſeveral of which *regard our Foreign Plantations*; and it is mark'd, at the Top of the firſt Leaf within the Cover C 199, which is a Mark of Sir *Hans Sloane*'s *Library*, to which the ſaid produced Volume anſwers in his Catalogue; the ſame Page alſo contains theſe Words (*Hans Sloane*) written by himſelf, as he acknowledged to this Deponent; and this Deponent is well aſſured. Saith that Sir *Hans Sloane* is the preſent Owner or Proprietor of the ſaid Volume, and which he can depoſe, becauſe that on *Tueſdny* laſt, he intruſted the Deponent with the ſaid Volume, out of his Library, in order to be examin'd to in this Cauſe, on the Deponent's giving him a *Receipt* for the return thereof to him again, and alſo, becauſe, that, *ſome Years ago*, he intruſted this Deponent therewith, in order to be produced at the Board of Trade. And further, for that, in examining Sir *Hans Sloane*'s Library, in the Year 1733, ſoon after he appointed the Deponent *his Librarian* the Deponent *then* took Notice of the ſaid produced Volume. And verily believes Sir *Hans Sloane* has been in Poſſeſſion of the ſaid Volume *between* 40 *and* 50 Years, for that *very particular Tract* contained therein is entred in the *firſt Volume* of his Catalogue, in his *own Hand Writing*, which firſt Volume of his Catalogue, as far as is written by himſelf, dos not to the beſt of the Deponent's Remembrance, contain *any one* Book or Tract publiſhed ſince the Year 1699; and *therefore* believed that he was in Poſſeſſion of *all* the Books, *entered by himſelf* in the ſaid *firſt Volume* in or before the ſaid Year 1699; and ſaith that Sir *Hans Sloane* has been collecting ancient and curious Books and Tracts ever ſince 1682, *at leaſt*, as he has often told the Deponent, and the Deponent is well aſſured to be true: for the Deponent has *often* taken Notice of ſeveral Books in his Library, in which he mark'd the Date of buying and purchaſing them to be 1682, written with his own Hand, in the ſaid reſpective Books; and ſaith that Sir *Hans Sloane* has a *very large* Library, and in particular, a *vaſt Collection* of *ſmall Tracts*, commonly called Pamphlets; and the Deponent obſerved whilſt he took Care of Sir *Hans Sloane*'s Library, that he had been from the ſaid Year 1682, and then was *extremely curious* in collecting every thing, *eſpecially Old Tracts*, publiſhed, or even in Manuſcript, *relating to our Plantations and Settlements abroad*, Voyages and Travels, and many other things; on which ſaid particular Subject does not remember that Sir *Hans ever* omitted to purchaſe, or endeavoured to purchaſe, any Book or Tract, *eſpecially Old ones*, that a moſt diligent enquiry and Examination, or peruſal of Catalogues of Books to be ſold could intimate to him; ſaith the preciſe Time when the ſaid Sir *Hans Sloane* became *firſt* poſſeſſed of the ſaid produced Volume does not appear by any Liſt, Catalogue or Account kept in his Library, but firmly believes Sir *Hans* has been in Poſſeſſion thereof *between* 40 *and* 50 *Years* for the Reaſons abovementioned. Saith that he hath look'd upon that particular Tract, bound up in the ſaid produced Volume, which purports to contain (a *Relation of* Maryland, together with *a Map* of the Country, the Conditions of Plantation, his Majeſty's Charter to Lord *Baltimore* tranſlated into *Engliſh*) and bearing for its Date *September* the 8th, *Anno Dom.* 1635. And takes *himſelf* to be *pretty well* acquainted with Books, having had Academical Education, and always loved Books, and having taken Care of Sir *Hans Sloane*'s Library *about* 7 *Years*; which Library contains near 40,000 *Volumes*, among which are an *immenſe Number of ſmall Tracts*, collected and *bound together in Volumes*, for their Preſervation; and he alſo, having *at preſent*, and for ſome time paſt, the *Care of Dr.* Mead's *Library*, and having about 2500 Volumes in *his own* Study or Library. And ſaith it is *no difficult* matter for a Perſon converſant with Books, to diſtinguiſh an *Old* Book, or a Book printed above a 100 Years ſince, from a *New* Book; the *Letter* or *Type*, the *Paper*, often the *Paper-Mark*, and in ſhort the whole Face or Appearance of the Book or Tract, are *very good Grounds* to make ſuch a Diſtinction. And ſaith that he ſaw and conſidered the *particular Tract* of the ſaid produced Book herein above-mentioned, upon the Occaſion here after mentioned, (to wit) about 7 *or* 8 *Years* ago, a Gentleman unknown to this Deponent, who called himſelf Mr. *Penn*, came to Sir *Hans Sloane*, and deſired a Sight of the ſaid particular Tract; whereupon the Deponent, by the ſaid Sir *Hans Sloane*'s Direction (to whom the Deponent was then Librarian) look'd for the Entry of the ſaid Tract in his Catalogue, (the uſual way of finding Books in great Libraries) and having found it, the Deponent brought the ſaid produced Volume which contains it, to the ſaid Sir *Hans*, who in this Deponent's Preſence ſhewed the ſaid particular Tract, and *the Map* contained therein, to Mr. *Penn*; and the ſaid Mr. *Penn* deſired the Loan of it, for a Day, on any *Security*, which Sir *Hans did not agree to*; but the ſaid Mr. *Penn* urging that it would be a great Detriment to him, in a Cauſe depending between him and the Lord *Baltimore*, if the ſaid produced Book could not be produced that ſame Day at *the Board of Trade*, the ſaid Sir *Hans* ſaid, he would intruſt *the Deponent* with it, for that purpoſe, *on Condition* that the Deponent would not *part with it out of his Sight or Poſſeſſion*, but barely produce it at the ſaid Board of Trade, if required; and therefore he deſired the Deponent to take the ſaid produced Book, and carry it *directly* to the ſaid Board of Trade, and bring it back again; which the Deponent accordingly did; and after the Deponent's return home to the ſaid Sir *Hans*, this Deponent carefully examined and conſidered the ſaid *Tract in particular*, and really *believes* that the *ſaid Tract is a genuine one, printed and publiſhed* at the Time of its Date, (to wit) *September* the 8th 1635, *and not a new or modern Tract*; and that the Motive of the ſaid Sir *Hans Sloane*, in procuring the ſaid particular Tract was, his extreme *Curioſity* in purchaſing *every thing* publiſhed or even in Manuſcript, *relating to our Plantations abroad*; and really believes Sir *Hans had no private View* in procuring the ſaid Tract, nor any View therein than that of making his Collection of Books and Tracts on the Subjects before-mentioned *as complete as he poſſibly could*, and conſequently, no View of deceiving or impoſing on any Perſon whatſoever. And ſaith that the ſaid Tract has an Engraved and Printed *Map* inſerted, between Pages 12 and 13, and bound up with it, *which Map it had at the Time this Deponent examined it, as above-mentioned.* And ſaith the ſaid *Map* hath theſe Words (*Hans Sloane*) written on the Back of it, which the ſaid Sir *Hans* told the Deponent he *formerly* wrote on it, to the beſt of his Remembrance, upon occaſion of lending the ſaid produced Volume out of his Library. And ſaith that *upon a ſtrict Examination*, and *impartial Obſervation*, on the ſaid *Map*, he does verily *believe it to be a genuine and ancient Map, cotemporary with the ſaid Tract, to be intended for the ſaid Tract*, and *to be the very identical Map* expreſſed in the Title-Page of the ſaid Tract.——And ſaith he hath looked upon a *ſmall printed Tract*, now likewiſe produced, which is *not complete or perfect at the latter end* thereof; and which is marked on the Outſide (*Maryland* 1635.) and he hath alſo looked upon the *written Map* of *Maryland*, contained between the 12th and 13th Pages *thereof*; and ſaith that he hath very *carefully and diligently* examined and compared the ſaid laſt mentioned *ſingle* Tract (ſo far as it goes) with the above-mentioned particular Tract in the aforeſaid produced *Volume* of Tracts, and finds they *very exactly and minutely agree together*, except that the Title-Page in the ſaid ſingle Tract having been partly wore or tore off, and the Defect thereof ſupplied by Writing, this Deponent obſerves that the Word (*London*) which is printed underneath the Word (*Dolphin*) in the ſaid produced Volume, is omitted to be copied in the ſaid ſingle Tract; and really believes that the ſaid two Tracts are *equally genuine*, ſo far as they are perfect; and that *they are two Copies of the ſame original Impreſſion*, of the *ſame Tract*; for this Deponent finds an exact Agreement or *Sameneſs*, in the Frame of the *Letter-Preſs*, the *Letter* or *Type*, the Lines of *each Page*, the *Orthography*, the *Punctuation*, the *Errors*, *ſome bad Types*, and the *Mark or Alphabet* of the Sheets at the Bottom of the Pages. And ſaith he hath compared and examined the *written Map*, contained in the ſaid *ſingle Tract*, with the *printed Map* contained in the ſaid produced *Collection of Tracts*, and believes the ſaid written Map to be a *good Copy* of the ſaid printed one. And this Deponent has obſerved that there is, in *both* the ſaid Maps, a Place called *Cheſopeak Bay*, and *each* of the ſaid Maps contain a prick'd or dotted ſtrait Line, running quite thro' the ſaid Maps, from Eaſt to Weſt, at the Figure (40) which Figure (40) is at the Eaſt-ſide or Border of the ſaid Maps; and the ſaid prickt or dotted ſtreight Line, in *both* the ſaid printed and written Maps, runs in the *ſame place, or extremely near, in each of the ſaid reſpective Maps*; and the ſaid prickt or dotted ſtreight Line runs *cloſe* in one part thereof, to the *Head* of *Cheſopeak Bay*, in *both* the ſaid printed and written Maps.

Note. The Uſe of eſtabliſhing this Book and Map printed by Lord *Baltimore* himſelf, ſo early as in 1635, to invite Perſons to ſettle his Country, in three Years after it was granted to him, is to ſhew that then he laid down the 40th Degree *compleat* to touch or make a Tangent to the *Head* of *Cheſapeak Bay*; whereas he has ſince from time to time encroacht, and we have *now* granted to him, *beyond every of his Encroachments.*

Ferd. John Paris [*Lib.* A. *fol.* 195. *Int.* 27. *fol.* 322] That he hath *diligently* enquired after the *moſt ancient printed Maps* and Accounts of the *particular Province* of *Maryland*, but hath not been able to diſcover more than *two* ſuch *antient* printed Maps and Accounts which particularly and *profeſſedly* treat of *Maryland, as a particular Province*; The *one* of which was, and is a *ſmall Quarto Book* called or ſaid to be a Relation of *Maryland*, together with a *Map* of the Country, the Conditions of Plantation, his Majeſty's Charter to the Lord *Baltimore* tranſlated into *Engliſh*, &c. and bearing for the Date of ſuch Book the 8th of *September*, *Anno Domini* 1635, in which was a *Map* of *Maryland*; and the *other* was the ſaid Book of *Ogilby*'s of 1671 before ſpoken of by, and produced to this Deponent; In which *laſt* mentioned Book, at about Folio 183, there appeared to this Deponent to be a *new* Deſcription of *Maryland*, together with a *Map* of that Province very nearly agreeing in the *Out* Lines (according to the Deponent's beſt Judgment and Belief) with that in the ſaid ſmall Book of 1635; but containing *more* and *other* Names, and *different* Names, of Places from thoſe contained in the ſaid other Book and Map of 1635; But, *beſides* ſuch printed Maps and Accounts, the Deponent found out, at the Board of Trade, *a written Map of Maryland*, which the Deponent believes and apprehends, to have been a Map of *ſome Antiquity*, and *before any Grant* was made from the Crown of the Province of *Penſilvania*, becauſe, that the Deponent does not, to his Apprehenſion, perceive *any Notice* taken therein of any ſuch Province as *Penſilvania*.

3ᵈ Branch, containing the ſtrongeſt Proof *uncontradicted*, that the Nature of the Caſe can admit of, that there *never was* any *real* Order of Council of 4th *April* 1638. about *William Clayborn* and the Iſle of *Kent*; but that ſuch Order was *made* or *invented*, by Lord *Baltimore* in the Year 1685.

Ferd. John Paris [*Lib.* A. *fol.* 195. *Int.* 23. *fol.* 292] That he hath peruſed the Paper produced, markt *Botra* N° 4, and the ſame bears Date the *4th Day of April* 1638, and, according to the Terms and Expreſſions therein, the ſame appears to be of the Purport of a *Report* or *Order*, of the *Privy Council*, or of ſome Lords or Committee thereof, upon *ſome* Petition of one *William Clayborne* relating to the Iſle of *Kent*; and the Deponent got the ſaid produced Copy from the Office of the Lords Commiſſioners for Trade, and the *Reaſon* and *Occaſion* of looking after, and getting out, ſuch produced Copy were, that the Deponent found that *Mention* was made of *ſome ſuch Paper*, in a *Petition* preſented to his Majeſty, in the Name of the Defendant on *8th of Auguſt* 1734, and alſo *in a Report* made by the Lords for Trade upon ſuch Petition, on *16th January* 1734; *wherefore* the Deponent was deſirous to ſee *what ſuch Paper was?* And ſaith that the Original Paper at the Board of Trade, (from which ſuch now produced Paper was copied) and with which the Deponent examined the ſame, appeared to be bound up in a Book, *not by way of regular Entry* of any Papers of the Year 1638, or about *that* time, but along with a *miſcellaneous* Collection of many *other* Papers of many *different* Kinds, Sizes and Dates relating to *many* different Matters; and ſuch Original Paper did not appear to this Deponent to have *then*, or to have *ever had* any *Sign, Seal* or *Mark of Atteſtation, whatever* to the ſame, nor to carry with it any Degree of Authority or Authenticity, to the Deponent's Belief; and as the Deponent conceived that *great Streſs* was laid (in the ſaid Petition in 1734) *upon ſuch Paper*, and as the Deponent diſcovered ſome *Entries* (in or about 1685) that ſeemed (to this Deponent's Belief) very much to *queſtion the Authority* of ſuch Paper, the Deponent *therefore* made Enquiry at the *Privy Council* Office, whether the Privy Council *Regiſters* or Journals of the Year 1638 were in *Being* or not? Upon which Enquiry being informed that the Council Regiſters *of that Year were in Being*, the Deponent *did ſearch*, and look into the ſame, and did there find *many Acts*, Proceedings or Orders of the Privy Council in *the ſaid Year* 1638, and ſeveral of Dates very *near* the Day, (if not upon the *very Day*) that the produced Copy bears Date, but after *diligent Search* made by him could find *no Entry* there, of *any* Order, of *any* ſuch Date as the ſaid produced Copy, or of any *other* Date, *which related* to the ſaid *William Clayborn* and the ſaid Iſle of *Kent*, of *any like Purport* with the ſaid Copy now produced.

Samuel Gellibrand [*Lib.* A. *fol.* 91. *Int.* 5. *fol.* 102] Has lookt upon the Exhibit *Botra* N° 4. which purports to be Copy of a Report of the Commiſſioners for Foreign Plantations upon *Clayborne*'s Petition againſt Lord *Baltimore* dated 4th *April* 1638——Says he *never*, at any time, *ſaw an Original* of the ſaid Paper *under any Seal*; *nor any* Copy of it which purported to *be ſigned* or *atteſted* as an authentick Copy, by any Clerk of the Council———Nor is the Paper, from which the produced Copy was copied. entred up in any *Original Journal* or Regiſter Book of the Acts and Orders of the Committee of Council for Trade and Plantations, of *the Year* 1638, *or about that time*, as he moſt aſſuredly believes; For he has made *diligent* Search, in the ſaid Journals and Regiſters, of and about that Year, and can find *no Entry* thereof. Says the Paper, from which the produced Copy was made, remains bound up in one of the old Books in the Plantation Office, with many other Papers, ſuch as Petitions, Orders, Letters, and the like, ſome whereof are Originals, and others only *Copies*, which were, as he aſſuredly believes, at various times, during the Space of ſeveral Years, before the Affairs of Trade and Plantations were put into Commiſſion as aforeſaid, preſented to, laid before, or left with the ſaid Committee for Trade, or their Secretary or other Officers———Says the ſaid Book is not a Book of *regular* Entries, in any *regular* Series, but contains, miſcellaneouſly, *many different* Papers relating to *many different* Matters and Perſons, and of *many different* Dates; and the Papers bound up therein are not all of a Size, but ſome are *ſmall* Papers, others *large*, ſome of them contain *Part of a Sheet* only, others *ſeveral Sheets*——The 3 Papers contained therein, next *preceding* that from whence this Copy was made are dated 18th *Auguſt* 1685, 13th *October* 1683, and 3 *July* 1663; and the three Papers, next following it, are dated 4th *April* 1638, 12th *May* 1684, and 20th *April* 1685——Says it has been the Cuſtom and Uſage in the ſaid Office, to bind up, in Books, ſuch Papers, *and*

Copies

Copies of Papers, as Perſons have preſented to, or laid before, or left with the Committee, or Lords Commiſſioners for Trade or their Secretary; And, in caſe any Perſon having Buſineſs depending before the ſaid Lords Commiſſioners ſhould at this time, preſent to them any Paper as a Copy of an Order of Council of ſome old Date, and ſhould leave it before them, *ſuch Copy would*, according to the Courſe and Uſage of the ſaid Office, *be bound up into a Book*, when there ſhould be Papers enough to make a Volume of, digeſted under their reſpective and diſtinct Heads and Titles in Order of Time as received and delivered, which was not as he obſerved ſo regularly done before the Affairs of Trade were put under Commiſſion as aforeſaid —— Says he has lately peruſed and read the *Minutes and Records* of 8th and 17th *October* 1685 of the Committee for Trade and Plantations, relating to a Matter then in Conteſt between Lord *Baltimore* and Mr. *Penn*, whereby it appears that *they* attended the Board on *both* thoſe Days, and that on the 17th of *October* the Lord *Baltimore* had undertaken to procure an *authentick* Copy of a Report made by the Commiſſioners for Foreign Plantations on 4th *April* 1638, touching the Differences between Lord *Baltimore*'s Predeceſſors and *William Cleyburne* about the Iſle of *Kent*; *From whence* it ſeems *probable* that the Paper, from which this Copy was made, was *firſt offered* to the ſaid Committee *by Lord Baltimore* in *October* 1685 —— And ſays the produced is a true Copy of that Paper in the ſaid Book.

Charles Dickenſon [*Lib.* A. *fol.* 19. *Int.* 38. *fol.* 27] That he is *Office-Keeper* and Servant to the Council Chamber of his Majeſty's Privy Council, and has been ſo ten Years or upwards; and ſaith that the *Council Regiſters* of the Acts, Orders, Reports, and Proceedings of the Privy Council, and of the Lords or Committee of Privy Council, *of the Year* 1638, *are in Being, in the ſaid Office*. And ſaith that he hath *carefully examined the Council Regiſters*, in order to *find out the Entry of an Order* or Report made the 4th of *April* 1638, upon the Petition of *William Clayborne* relating to the Iſle of *Kent*; and ſaith that he *did find ſeveral Entries* in the *Council Regiſters*, wherein the Orders and *other* Acts of the ſaid Year 1638 are entred, of *the very Date* of the 4th of *April* 1638, relating to *other* different Matters, but this Deponent could *not nor did find any Entry* therein of the ſaid 4th *April* 1638 of *any* Report or Order of the Lords or Committee of Privy Council *which related* to *William Clayborne* and the Iſle of *Kent*; though he *carefully ſearcht* in the ſaid Council Regiſters for the ſame.

What adds to this Proof is, that the pretended Order of 4th *April* mentions a ſuppoſed prior *Reference* of *Clayborne*'s Petition to that Committee. But there is no ſuch *Reference* neither to be found, ſo that it's manifeſt the *whole* is an *Invention*.

4th Branch, ſhewing that the *Swedes*, the *Dutch*, and the Duke of *York*, ſucceſſively, held the Lands now called the *three* Lower Counties, under the Names of *New Sweden, New Netherland, South River, Delaware, Sandhook*, from the Year 1630 downwards —— That the *principal Seat* of Government was then at *New York* —— And Lord *Baltimore*'s Anceſtors *never* poſſeſt —— alſo of the *Conqueſt* from the *Dutch* in 1664.

John Rambo of *New Jerſey* aged 79 [*Lib.* B. *fol.* 36. *Int.* 27. *fol.* 37] Knows the Province of *Penſilvania*, is acquainted with *Newcaſtle*, and has been at the Place commonly called the *Whorekills*, but is not otherwiſe acquainted with the three Lower Counties. Knew the Province *before* it was called *Penſilvania*, being upwards of 70 Years ago [before 1670] Has heard from his *Father* and *other* old People, that the ſaid Countries were *originally* ſettled by the *Dutch and Swedes*, but by which of them *firſt* does not remember to have heard. But knows that the ſame Countries have been ſince under the Government of the *Engliſh* —— Has *heard* that the ſaid Countries were *firſt* called *New Swedeland* by the *Swedes*, And *knows* that the ſame Countries were, afterwards called *South River* by the *Dutch*, and ſometimes were called *Delaware* River. And that the Province of *Penſilvania* has been called by *that* Name, ever ſince *William Penn*'s being Proprietor thereof; but by what Names the ſaid three Lower Counties were *ſince* ſeverally called knows not —— Knows the Bay and River of *Delaware*, which as he has heard was *formerly* called *South River*, but, after the coming of the *Engliſh* were called *Delaware* River and Bay —— Has been informed by the *Sailors*, that, when they come in *from Sea* and arrive at *Bombay Hook*, anciently called *Bombkeyshook*, they ſuppoſe and take themſelves to be at the *Head* or *End* of the *Bay*, at the *Beginning* or *Entrance* of the *River* —— That *Newcaſtle* was formerly called *Sandhook* by the *Dutch*, and, ſince the ſame has been in the Hands of the *Engliſh*, has been called *Newcaſtle*, and does not know or remember to have heard the ſame called by any *other* Names —— Does not know nor has heard, that the ſaid three lower Counties were *anciently* divided into *Counties*, but has heard that the Creek at *Lewis* Town, near the Capes, was called the *Whorekills* —— Does not know, nor *ever heard*, that the ſaid Province of *Penſilvania*, and the three lower Counties or *any part* thereof, were ever under the Government of Lord *Baltimore*.

William Peterſon of *New Jerſey* aged 92 [*Lib.* B. *fol.* 24. *Int.* 27. *fol.* 25] Has known the Province of *Penſilvania* and the Land between *Newcaſtle* and *Whorekill*, formerly called *Sandhook*, a long time, and before *William Penn* came into the Country; but can't aſcertain the *exact* Time of his *firſt* Knowledge, nor does he know that any part of the Land between *Newcaſtle* and *Whorekill* was ever called *Kent*; when *he* came into the Country the ſaid Province, and the Land there called *Sandbook* were in Poſſeſſion of the *Dutch*, under the Government of the Province *now* called *New York*, at that time called *Manhadas* —— And has heard *from the Swedes*, that the ſaid Province and Land were poſſeſt, by People of *their* Nation, *before* the Poſſeſſion of the *Dutch* —— That the ſaid Province and Land were *formerly* called *New Netherland* by the *Dutch*, but after the Arrival of *William Penn* here they were called *Penſilvania* and *Newcaſtle* —— He knows the Bay or River of *Delaware*, and never heard it called from the Mouth between Cape *May* and the *Whorekill*, where it enters into the Sea, upwards, by any other Name than the Bay or River — Has *never heard*, or known that the Province of *Penſilvania* or the Counties of *Newcaſtle*, *Kent* and *Suſſex*, or *any* of them, have been under the Government of Lord *Baltimore* Proprietor of *Maryland*.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 27. *fol.* 336] Has heard and believes that the Bay and River were formerly under the Government of the *Dutch*, and were then called *South River* by the *Dutch*, and *alſo* in ſome *old Dutch Maps* which he has ſeen —— Has alſo heard that the *Swedes* had formerly ſome Pretenſions in thoſe Parts.

Thomas Noxon aged 40. [*Lib.* C. *fol.* 488. *Int.* 27. *fol.* 502] Has heard from *many old Dutch People*, Inhabitants of the City of *New York*, and of ancient *Dutch*, *Swedes*, and *other ancient Inhabitants* of the County of *Newcaſtle*, and *believes*, that *all* the Lands on the *Weſt* ſide of *Delaware* River and Bay, from the *Ocean* up to about the *Falls* of *Delaware*, were under the *Dutch Government*, whoſe *principal Seat* was at the ſaid City of *New York*, formerly called *Manhatans*; their *whole* Poſſeſſions in thoſe Parts being at that time called *New Netherlands* —— Says he is the *more confirmed* in this Belief, *becauſe* it appears from the *Dutch Records* at the City of *New York*, that the ſaid Lands on the Weſt ſide of *Delaware* were under the Government of the *Dutch* from before 1630 to 1664. By which *Records* it alſo appears that about 1637 the *Swedes* made Encroachments upon the *Dutch* Settlements, on the Weſt ſide of *Delaware* River aforeſaid, which produced many Quarrels and Differences between the *Dutch* and *Swedes* that continued till near or about 1647 or 1648 —— About which time, it alſo appears by the ſaid Records, that the *Swedes*, who then continued within the Claim of the *Dutch*, became ſubject to the *Dutch* Government —— And that, by the ſaid Records, it further appears that the *Dutch* Poſſeſſion and Government continued till 1664; at which time the ſaid Lands on *Delaware* were reduced to the Subjection of the King of *Great Britain*. —— Has never heard or believes that *Penſilvania* and the three lower Counties were *ever* under the Government of the Proprietor of *Maryland*, but has heard, by ancient Inhabitants of the ſaid Counties, that ſome People of *Maryland* burnt and deſtroyed the Town of *Lewes*, formerly called *Whorekill*, the Truth whereof appears more plainly to this Deponent from a Letter, upon Record in the City of *New York*, which appears to be ſent from *Francis Lovelace*, Governor of *New York*, to the Governor of *Maryland*, complaining that one *Jones*, with ſome others, as diſſolute as himſelf, came to the *Whorekills*, rifled the Houſes of the Inhabitants, and uſed them very ill; and likewiſe *demanding Satisfaction* for ſaid Injuries.

5th Branch, proving *where* the true *Suſquehannah Indian Fort* formerly ſtood, which is mentioned in ſome of the Proceedings in 1680.

James Hendricks aged 73. [*Lib.* C. *fol.* 743. *Int.* 131. *fol.* 744. and 132. *fol.* 748] Knows Part of *Cecil* County in *Maryland*, and *Lancaſter*, *Cheſter* and *Philadelphia* Counties in *Penſilvania* —— Does not know the *Bay* of *Cheſapeak*, but knows the River of *Suſquehannah*, Part of which lies in *Maryland*, and Part in *Penſilvania* —— Has ſeen *Indian Forts* and *Indian Towns*; apprehends the *Difference* between an *Indian Fort* and *Town* is, that the *firſt* is an Houſe or Number of Houſes *ſurrounded by Stakes of Wood* and *a Bank of Earth caſt up*, and the other is only a Number of Cabbins, built near each other, *without being ſo ſurrounded* —— Says that he, near *fifty* Years ago, ſaw about 40 *Indian* Cabbins or Houſes upon *the upper Point* of Land which *forms* the *Mouth* of *Octorara* Creek that runs into *Suſquehannah* River aforeſaid, within about *Half a Mile* of the ſaid Creek and River; which Town *had Stakes of Wood, and a Bank caſt up round it* —— That the Affirmant was *then* told, by ſome of the *Indians* there reſiding, that *they* called the ſame Place *Meanock*, which they ſaid, in *Engliſh*, ſignified a *Fortification* or *Fortified Town*. —— Has alſo ſeen the *Ruins* of another ſuch Fortified Town, on the *Eaſt* ſide of *Suſquehannah* River aforeſaid, *oppoſite to a Place* where one *Thomas Creſap* lately dwelt —— That the Land *there*, on *both* ſides of the ſaid River, was formerly *Conajocula* —— Further ſays that the *Indians*, who lived in the ſaid laſt mentioned Town before he ſaw the ſame, were removed from thence, lower down (to) the ſaid River to *Coneſtogo* —— [*Int.* 132. *fol.* 748] Has known the ſaid River *Suſquehannah*, near *fifty* Years, and firſt became acquainted with it, by ſearching thereabout for *Mines*. That he knows the Place on the ſaid River called *Coneſtogo*, and that near 50 Years ago [that *muſt* be 1690 or after] he and another Perſon travelled to *Coneſtogo*, and this Affirmant underſtanding the *Indian* Language, *enquired* of ſeveral of the *Indians* there, whether *any* Chriſtian People had ever travelled *ſo high* up the ſaid River as *Coneſtogo* aforeſaid? and was informed *by them* that *there had not*, but that this Affirmant and his ſaid Companion were *the firſt*; for which reaſon this Affirmant does *believe* no Chriſtian People had *ever*, *before* that time, travelled *ſo high* up the ſaid River.

Two Reaſons why the *Upper* Fort *could not* be the *Suſquehannah* Fort, mentioned as agreed upon before the Lords of the Council in 1680.

1ſt, No Chriſtian had ever been up ſo high in ten or twelve Years *after* that time, to know that there was *any Fort there*.

2d, The Land there was not *Suſquehannah* Land, it was *Conajocula*, which is the Name of another Nation of *Indians*.

Ergo the *lower* Fort, at the *Mouth* of *Octorara* Creek, was the Fort mentioned before the Lords of the Council in 1680.

And that preciſely falls in, and coincides, with my Lord *Baltimore*'s running his Line preſently after, *viz.* in 1683, from *the* Place where that Fort was, *viz. the Mouth of Octorara Creek*.

As to *which* Fort our Evidence continues very ſtrong and clear.

John Hans Steelman [*Lib.* C. *fol.* 749. *Int.* 131, *fol.* 750] *Indian Trader*, aged 85, Is acquainted with the greateſt Part of *Maryland* and *Penſilvania*, and is well acquainted with the Bay of *Cheſopeak* and *Suſquehannah* River, and ſome part of the ſaid River lies in *Maryland*, and ſome part of it in *Penſilvania* —— Has *frequently* ſeen both *Indian Towns* and *Indian Forts*, and ſays the *Difference* between an *Indian Town* and an *Indian Fort* is, that an *Indian* Town is a Number of *Indian* Houſes or Cabbins built or ſet near together, and an *Indian Fort* is ſuch a Town, *fortified or ſurrounded* with a Breaſt-work of Poles or Stakes of Wood ſet up, and a Bank of Earth thrown up about them —— Says that about *forty or fifty Years ago*, he ſaw an *Indian* Town wherein were *Indians then* reſiding, *at the Point of Land at the upper ſide of*, and *about Half a Mile from*, the Mouth of *Octorara* Creek, which runs into *Suſquehannah* River aforeſaid; *And* at the ſide of, or near to, the ſaid *Town* this Deponent *then* alſo ſaw an *Indian Fort*, conſiſting of a great Number of Poles or Stakes of Wood ſet up, and a Bank of Earth thrown up about the ſame, as herein before deſcribed, which the ſaid *Indians then* told this Deponent *had been* the *Indian Fort* —— Says he alſo remembers that one *Jacob Young*, did, before or about the *ſame* time, ſhew this Deponent the Ruins of *another Indian Fort* —— which ſtood at about *three Quarters of a Mile* from the ſaid firſt mentioned Fort, and *where* the ſaid *Jacob Young then* alſo ſhewed this Deponent *ſeveral dead Mens Bones*, and told him that a *great Battle* had been fought there by the *Indians*.

Elizabeth Murthy aged 43. [*Lib.* C. *fol.* 754. *Int.* 131. *fol.* 755] Knows ſome Parts of *Cecil* and *Baltimore* Counties in *Maryland*, and ſome Parts of *Lancaſter*, *Cheſter* and *Philadelphia* Counties in *Penſilvania*, knows the River *Suſquehannah*, but does not know the Bay of *Cheſapeak*, Says Part of the River *Suſquehannah* lies in *Maryland* and Part in *Penſilvania*. Has ſeen *Indian Forts* and *Indian Towns*, and that the Difference between an *Indian Town* and an *Indian Fort* is, that the firſt is incloſed with Wood, by ſome called Palliſadoes, and Banks of Earth, and that the latter is a Place where their Houſes or Cabbins are built, and they plant their Corn without ſuch Incloſure —— Says that *upwards of* 30 *Years* ago, ſhe ſaw a Place *on a Point of Land*, between the *Mouth* of *Octorara* Creek that runs into *Suſquehannah* River aforeſaid and the ſaid River, *near to the Mouth* of the ſaid Creek, *where, her Father* Jonas Erskine, *ſince deceaſed*, informed there had *formerly* been an *Indian Fort* —— That, *when* ſhe *ſaw* the ſame, there appeared *a large Bank caſt up round it*, and the *Tops* of the Palliſadoes that had been there appeared to be *rotted off*, and the *Stumps* of them *remained* in the Ground —— And ſays that *her Father*, who lived at the ſame Place many Years, *by the Licence* of the *Indians*, informed her there had been a *great Battle* fought *there*, and *ſhewed her* the *Bones* of ſeveral Perſons buried in the Cliffs of the Rocks, which he ſaid were the Bones of *Indians* ſlain in that Battle —— That the *Indians* who had *formerly* reſided at the Place, were *removed* from thence when ſhe ſaw it; and *then* lived at a *ſmall Diſtance* from it —— Says that her Father, likewiſe, *at the ſame time*, ſaid to her this Affirmant, "*That you may remember it, there, over the Creek* (pointing to a Place over *Octorara* Creek aforeſaid) "*I ſaw the Lord* Baltimore *ſet his Compaſs to run the Line*.

Margaret Allen aged 39. [*Lib.* C. *fol.* 759. *Int.* 131. *fol.* 760] She knows *Suſquehannah* River, and very well diſtinguiſhes between an *Indian Fort* and Town; And ſays that, *near* 30 *Years* ago, ſhe lived with her Father *Jonas Erskine now deceaſed*, at a Place near the *Mouth* of *Octorara* Creek which runs into *Suſquehannah* River, where the *Remains* of an *ancient Indian Fort*, a *Bank*, and ſome part of the *Loggs* with which it had been ſurrounded, *appeared* —— That ſhe *often* heard her ſaid Father, *and ſeveral Indians*, who reſided *very near* the ſame Place, ſay that, at the *ſame* Place, there *had*, formerly *been* an *Indian Fort* —— And ſays that ſhe *ſaw there*, *great Numbers* of human *Bones*, which her Father informed her, had been ſlain in many *Battles* fought there —— And that *ſhe often*, pickt up *great Numbers* of *Stone Arrow Points*, and *Stone Hatchets* there.

6th Branch, Proving *by whom* the Lower Counties were poſſeſt, when Mr. *Penn firſt* went thither in 1682, and alſo the actual Delivery of *Seizin* to him then.

Samuel Hollingſworth aged 67. [*Lib.* B. *fol.* 57. *Int.* 28. *fol.* 59] Has known the Province of *Penſilvania* and County of *Newcaſtle* ſince 1682, but has not been well acquainted with the two Lower Counties of *Kent* and *Suſſex*. Reſided in *Newcaſtle* County from 1682 to 1701, and then removed to *Cheſter* County, where he has reſided ever ſince. Firſt arrived at *Newcaſtle* in 1682, and, *then*, underſtood from his Father and others, that the Plaintiffs Father was gone down to *Maryland* to meet Lord *Baltimore*; and, in a few Days after, ſaw him return, from thence as 'twas ſaid, in a Riding Habit. *At that time* there were *ſeveral Families* of *Swedes* and *Dutch*, ſettled upon *each* ſide of *Chriſtiana* Creek as high as the Tide Water flows, and, on the lower ſide of *Brandy-Wine* Creek; But there were few, or no Settlements *back in the Woods*, that he knew of, *that being the Year when* the Back Woods *firſt began to be ſettled*.

John Muſgrove aged 73. [*Lib.* B. *fol.* 67. *Int.* 28. *fol.* 68] Came into the Country in 1682, and lived in *Newcaſtle* County four Years. Well remembers he firſt ſaw *William Penn* in the Year 1682 at *Robert Wade*'s Houſe in the Town now called *Cheſter* in *Penſilvania*, where the ſaid *William Penn* then generally lodged, and the Affirmant alſo.

Joſeph Wood Carpenter, aged 81. [*Lib.* B. *fol.* 4. *Int.* 28. *fol.* 5] Knew the Country now called *Penſilvania* before it was called by that Name. Came from *England* and arrived in the Bay of *Delaware* about 1678, and the Counties *Newcaſtle*, *Kent* and *Suſſex*, at that time, were governed by Sir *Edmund Andros*, who was then alſo Governor of *New York* under the Duke

of *York*. Has reſided in *Penſilvania* ever ſince. That *William Penn* arrived at *Newcaſtle* about 1682, where the Deponent then was at Work as a Carpenter, where he, then, *ſaw Ephraim Herman* and *John Moll*, make *Livery of Seizin*, of *Newcaſtle* aforeſaid, in the Name of *all the adjacent Lands* that belonged to the Duke of *York*, to the ſaid *William Penn*, by delivering a *Turff* and *Twig* from the *Land*, and *Water* and *Mud* from the River, by vertue of a Power from the Duke, as the Deponent underſtood, and *which he heard read*

William Peterſon of *New Jerſey*, aged 92. [*Lib.* B. *fol.* 24. *Int.* 28. *fol.* 28] Came into the Country about 1658, and lived for 20 Years after on *Chriſtiana* Creek about three or four Miles from the Mouth of it, and has ever ſince reſided in *New Jerſey*. Saw *William Penn*, at his firſt Arrival in the Country, which he *well* remembers, having ſeen ſome Perſons, *then make Livery* of *Newcaſtle*, then called *Sandhook*, and the *River*, by delivering to him ſome *Water* and *Earth*.

Note, The Defendant has croſs-examined both the laſt Witneſſes to many *other* Matters.

7th Branch, to prove the Petition from the Inhabitants of the Lower Counties in 1682, to be united to the Province of *Penſilvania*, alſo an *Indian* Purchaſe then made, and a Copy of a Demand made upon Mr. *Penn* by Colonel *Talbot*, which was in 1683.

Patrick Baird, aged 47. [*Lib.* C. *fol.* 763. *Int.* 117. *fol.* 764] Has lookt on the Paper Writing *B. B.* which purports to be—*A Copy of a Commiſſion* given by *Charles* Lord *Baltimore* to Colonel *George Talbot*, to demand of the Plaintiffs Father all the Land on the Weſt ſide of the River *Skuylkill* that lay to the *Southward* of the 40th Degree Northerly Latitude, *according to an Eaſt Line run as is therein mentioned*, with *the Copy of the ſaid Demand*, and alſo a Copy of the *Anſwer*, given by the ſaid *William Penn*, to the ſaid Demand; which Copy of the Anſwer he believes is ſubſcribed with the proper Name and Hand-writing of the ſaid *William Penn*——And the Reaſon of his Belief is from the *great Similitude* of the ſaid written Name, to the Name of *William Penn*, which he has ſeen ſubſcribed to *many* other Papers, and which he was informed by divers Perſons, were the proper Hand-writing of the ſaid *William Penn* ——Says he was appointed *Secretary* of *Penſilvania* in *July* laſt, and by vertue of the ſame Appointment, did receive *ſundry Books and Papers* which were lodged in the ſame Office, and, amongſt thoſe Papers, did receive the ſaid Paper *B. B.*——Has ſeen another Paper *D. D.* which he takes to be an *Original* Paper, containing a Petition from ſundry Perſons formerly Inhabitants of the Counties now *Newcaſtle*, *Kent* and *Suſſex*, to the Proprietor of *Penſilvania*, praying for a *Union* and Incorporation of the ſaid Counties with the ſaid Province, and he received the ſame at the ſame time, and in the ſame manner as the other——Has ſeen *another Paper* Writing *F. F.* and believes the ſame to be an *Original* Paper, purporting to be a Sale of Lands from divers *Indians* to *John Moll*——And believes the *Endorſement* thereon, whereby *Moll* releaſed the ſame to the Plaintiffs Father, is an *Original Writing* alſo, and he received that Paper likewiſe, at the ſame time, and in the ſame manner, as the other.

8th Branch, relating to the *Names* which the lower Counties have been called by, under the *Dutch*, the Duke of *York* and Mr. *Penn*, the making them into Counties in 1682. and their being called the *Territories of* Penſilvania.

Samuel Preſton aged 75 [*Lib.* B. *Fol.* 312. *Int.* 8. *Fol.* 315.] Has been acquainted with the County of *Kent* on *Delaware* about 60 Years——And with the Province of *Penſilvania* and the Counties of *Newcaſtle* and *Suſſex* about 53 or 54 Years——The ſaid County of *Kent* when he *firſt* knew it, was generally called *St. Jones's*——Has heard that the ſaid *County* (now *Suſſex*) before he knew it, had been generally called the *Whorekill*——And that the ſaid three Counties have *frequently* been called by the Names of *the three lower Counties*, and, *The Territories of* Penſilvania, *both* by *William Penn* and his Adherents, and *alſo by other Perſons in general*.

Abraham Allman aged 50 [*Lib.* B. *Fol.* 236. *Int.* 8. *Fol.* 236.] Was born in, and is pretty well acquainted with *Newcaſtle* County, has been at *Philadelphia*, and has been in *Kent* County, but knows nothing of *Suſſex* County; and he never heard the ſaid three Counties called by any *other* Name than as aforeſaid.

James Logan aged 66 [*Lib.* B. *Fol.* 76. *Int.* 8. *Fol.* 92.] That *Delaware* Bay and River, whilſt they were under the *Dutch*, as he has collected from his Reading, were called *South River*; and the *upper* Part of the three Lower Counties was called *Sandhook*, and the *lower*, *Whorekill*; That, when the Country called *New Netherlands* (of which the Lands on *both* Sides of the *South River* were *Part*) were taken from the *Dutch*, by the *Engliſh*, about 1664, according to the beſt Information he could ever obtain, the ſaid Lands on *both* Sides of the ſaid River, were generally called *Delaware*; And that, upon taking the ſaid Country called *New Netherland*, the *upper Part* of the ſaid three Counties, formerly called *Sandhook*, was called the *County of Newcaſtle*, by which Name the *Town* there built by the *Dutch* was and is known to this Day——And the *lower Part*, towards the Capes, ſtill retained the Name of *Whorekill*; by which Name the ſmall Town, alſo built by the *Dutch*, near the Cape was diſtinguiſhed——That afterwards the ſaid *Two Diſtricts*, of *Newcaſtle* and the *Whorekill*, were divided into *three Counties*, by erecting one in the *middle* of them called *St. Jones's*——And that, ſome time after, the Governor of *New York* changed the Name of the *loweſt Part* of the ſaid Land called the *Whorekill*, into that of *Deal County*——And after the Arrival of *William Penn*, Proprietor of *Penſilvania*, he, having obtained from the Duke of *York* a Grant of the ſaid Counties ſcituated on all the Weſtern Side of *Delaware* from the Province of *Penſilvania* Southward, changed the Name of the *County of Whorekill or Deal*, to that of *Suſſex*; and the Name of the ſaid *Town of Whorekill*, to that of *Lewes*; and alſo changed the Name of the *County* called *St. Jones's*, to that of *Kent*; and erected a Town therein, which he called *Dover*; but the *Town* and *County* of *Newcaſtle* ſtill retain their *former* Appellation——And ſays that by an Act of *Union* made by the Repreſentatives of the Province of *Penſilvania* and the ſaid three Counties, the *whole* Government of the ſaid Province and Counties was *united*, under *one* Legiſlative Aſſembly and *ſo continued*, under the Name of *The Province of* Penſilvania, *and the Territories thereto belonging*, from the Year 1683 to the Year 1704, from *which* time, hitherto, they have had *ſeparate* Aſſemblies, He has not heard the ſaid Counties called by any *other* Name than he has mentioned, unleſs, to the Name of *Delaware*, ſome Perſons might have added the Word *Settlement*.

Thomas Noxon aged 40 [*Lib.* C. *Fol.* 488. *Int.* 8. *Fol.* 496.] Has been acquainted with *Penſilvania* and the three lower Counties about *twenty* Years——Has *frequently* heard the lower Counties called the *Territories of* Penſilvania, *in* Maryland, in *Penſilvania*, and in *other* neighbouring Governments, and has heard them called the three lower Counties——Ever ſince he has been well acquainted with them, they have been generally called the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*——Has *formerly* heard the ſaid Counties, by *ſome ancient* Dutch *People reſiding in* New York, called by the Name of *South* and *South River*——And from the *Dutch Records* at *New York* has learnt that, from 1630 to 1664 that Part, now called the three Lower Counties was *generally* called *South River*, particularly that Part where *Lewes* now ſtands was called *Whorekill*; where *Newcaſtle* now ſtands, was *firſt* called *Sandhook*, afterwards *Fort Caſimier*, and after that *New Amſtel*—— Has alſo learned from the *Engliſh Records* at *New York*, that, from the Conqueſt of *New York* and the ſaid three Counties by the *Engliſh* in 1664, to near or about 1680, the ſaid Counties were ſometimes called South River, afterwards *Delaware*, *Delaware* River, and *Delaware* Bay, ſometimes one, and ſometimes the other, reſpecting the ſeveral Places in thoſe Records ſeverally meant, but, more particularly by the Names of *Newcaſtle* and Dependancies, and *Whorekill* and Dependances——That, in or about 1680 the ſaid Counties were diſtinguiſhed into *three* Diſtricts; and that Part now called *Suſſex County*, *ſtill* retained the Name of the *Whorekill* and Dependances; the Part now called *Kent* County, was, about that time called *St. Jones's*, and afterwards *Deal*; and the Part, now *Newcaſtle* County, was *then* called *Newcaſtle* and Dependances, (but does not remember that it appears from thoſe Records that the ſaid Counties were *then* called by the Name of *Counties*) which laſt mentioned Names they continued to bear till 1682, *when* it appears by the ſame *Records* that Mr. *Penn* purchaſed the Land compoſing the ſaid Counties from the Duke of *York*——Has alſo learned from *the Records*, within the ſaid three Counties, that, *ſoon after* the ſaid Purchaſe, Mr. *Penn* erected the ſaid Lands into *Counties*, by the Names of *Newcaſtle*, *Kent*, and *Suſſex*, which Names they now bear.

9th Branch, To prove Colonel *Talbot*'s running a Line in 1683 from the Mouth of *Octorara* Creek, by Order of Lord *Baltimore*, for a Diviſion, called *Octorara* Line, Colonel *Talbot*'s Line, and Lord *Baltimore*'s Line; and afterwards building a ſmall Loghouſe of a few Logs, within and *below* that Line, for a *Fort*, (which themſelves afterwards *deſerted*) and that that Line was *always* regarded by Us; and for more than 40 Years by them alſo.

Samuel Preſton aged 75 [*Lib.* B. *Fol.* 312. *Int.* 25. *Fol.* 335.] Heard of one Colonel *George Talbot* who lived in *Maryland*, and had conſiderable Intereſt with, and was a great Favourite of, the late Lord *Baltimore*, and bore a great Sway in *Maryland*; but whether he held any Poſt or Place there knows not.

John Muſgrave aged 73 [*Lib.* B. *Fol.* 67. *Int.* 25. *Fol.* 74.] Knew Colonel *George Talbot*, and has heard that he lived in *Maryland*.

Samuel Hollingſworth aged 67 [*Lib.* B. *Fol.* 57. *Int.* 25. Fol. 66.] Knew Colonel *George Talbot*, and has ſeen a Houſe, *on the Weſt Side of the Head of* Elk *River*, which he was informed, was the Houſe he lived in.

The ſame [*Int.* 23. *Fol.* 61.] That one Evening, in or about 1683, Colonel *George Talbot* of *Maryland*, with 4 or 5 others, came to the Houſe of the Affirmant's Father, and requeſted Lodging for *that* Night, and being welcomed into the Houſe, upon Converſation between his Father and *Talbot*, concerning the Buſineſs *Talbot* was *then* about, the Affirmant heard *Talbot* acquaint his Father, that he was then, by Lord *Baltimore*'s Orders, *running a Line to divide* the Province of *Maryland* from the Province of *Penſilvania*, which was to be the *North Boundary* of *Maryland*; that he had *begun* the ſaid Line, *at the Mouth of* Octorara, *and had, and was*, to run it, from thence, *due* Eaſt to *Delaware*——That they returned to his Father's Houſe the *next* Night, and then the ſaid *Talbot* informed his Father that they had *finiſhed* the ſaid Line. That the Affirmant *the next Day*, *ſaw a Line of marked Trees*, which he *then*, and many Times afterwards underſtood, was *the* Line run by the ſaid *Talbot*, and which he ſaw *frequently* after, and *ſo well* remembers that he believes he could ſhew its Courſe *at this Time*; and underſtood that it *ended* a little *below the Mouth of* Naaman's *Creek*: That the ſaid Line was ſometimes called *Talbot*'s Line, ſometimes *Maryland* Line, but, generally, Lord *Baltimore*'s Line. Has heard there was a *Fort* built, (*ſoon after* running the ſaid Line) by the Order of Lord *Baltimore*, *ſome Miles to the Southward of the ſaid Line*, *near* Chriſtiana *Bridge*, *in order to keep Poſſeſſion*——That *he* never *ſaw* the ſaid Fort, but underſtood it was a *little Loghouſe*, that hardly deſerved the Name of a Fort.

John Muſgrave, aged 73 [*Lib.* B. *fol.* 67. *Int.* 23. *fol.* 70.] That about 1683, Colonel *George Talbot*, with ſome others, came to the Houſe of *Valentine Hollingſworth*, the Affirmant's *Maſter*, and requeſted Lodging for a Night, which being granted, upon Diſcourſe between *Talbot* and the Affirmant's Maſter, the ſaid *Talbot*, in this Affirmant's *Hearing*, told him he was running a Line from the *Mouth* of *Octoraro* to *Delaware* River, by Order of the Lord *Baltimore*, for a *Diviſion Line* between Lord *Baltimore* and Mr. *Penn*. That the ſaid *Talbot* and his Company departed next Morning, and returned to the Affirmant's Maſter the next Night; and then, ſaid he had *finiſht* the ſaid Line. That *very ſoon afterwards* he *ſaw* a Line of markt Trees, which, he was informed, ſtood in the Line run by the ſaid *Talbot*, and were markt by him, which he *knew* a long time afterwards. Does not know where the ſaid Line ran into *Delaware* River, but has heard, 'twas a little below *Naaman*'s Creek.——Does not know, or has heard, that the ſaid Line was run by *any* Authority or Direction from *William Penn*.

Samuel Gellibrand [*Lib.* A. *fol.* 91. *Int.* 9. *fol.* 120.] proves an Exhibit *Botra* N° 20. to be a true Copy of an Original *Letter* from *William Penn*, to the Committee for Trade and Plantations remaining now in their Office, dated 14th *Auguſt* 1683, wherein Mr. *Penn* relates ſome Interviews and Diſputes he had already had with Lord *Baltimore* in *America*.

And now came on the very buſy *Conteſt* at the Council-Board, when there were ſo *many* Hearings in the Years 1683, 1684, and 1685, between Lord *Baltimore* and Mr. *Penn*.

Samuel Gellibrand [*Lib.* A. *fol.* 91. *Int.* 10. *fol.* 122.] Proves an Exhibit, being Copies of *Petitions and Orders*, &c. in *May* and *February* 1683, and *Auguſt* 1685, remaining now at the Board of Trade. That Exhibit being markt *Botra*, N° 21.

The ſame [*Int.* 11. *fol.* 125.] He proves the *Minutes* of the Proceedings, and Acts of the Committee, during thoſe three Years, from 17th *April* 1683, to 7 *November* 1685.——It is Exhibit *Botra* N° 22.

Note, During that long Conteſt, *Penſilvania* being in its Infancy, and the Proprietor attending thoſe Hearings, Lord *Baltimore* took the opportunity, to build, in that Wilderneſs, unſettled Country, what is now *called* a little *Fort*; of which we ſhall make good uſe, after we have ſhewn that *Penſilvania*, and indeed *both* Sides, paid a great regard to that *ex parte Octoraro* Line, ſo run by Lord *Baltimore*'s Order in 1683.

Samuel Hollingſworth, aged 67. [*Lib.* B. *fol.* 57. *Int.* 24. *fol.* 65.] Has heard that the Part of the Line which he has before mentioned, which was markt (*towards Octorara*) *was regarded* by the People inhabiting on *both* Sides of it, *as the Diviſion* between the *Provinces* of *Maryland* and *Penſilvania*, but that Part thereof which run thro' *Newcaſtle* County (towards *Delaware*) he *never* underſtood, *was*, in *any* ſort, *regarded* as ſuch a Diviſion Line.

John Muſgrave, aged 73 [*Lib.* B. *fol.* 67. *Int.* 24. *fol.* 72.] That the Inhabitants of the Province of *Penſilvania* and *Maryland*, *for a long time* after running the ſaid Line, had ſo *great* a regard to the ſame, that *no Incroachments* were made beyond it, *on either ſide*; But, *of late*, he has heard, ſome Encroachments have been made by the *Maryland* Officers, but does not know it, living far from thence. Does not know that the Proprietors of *Penſilvania*, their Agents, Commiſſioners, Magiſtrates, Surveyors or Officers, have tranſgreſt the ſaid Line, or that *any* Lands have been granted, by or under their Authority, or any Juriſdiction exerciſed, to the *Southward* of that Line.

John Ball, aged 69. [*Lib.* B. *fol.* 15. *Int.* 22. *fol.* 16.] Knew the *Town* called *Newcaſtle*, about 1677, or 1678, which was *then* ſettled by *Dutch* People, and called *Sandhook*, which, with the *County* of *Newcaſtle*, was then governed by Governour *Andros*, the Governour of *New-York* under the Duke of *York*. That about 54 Years ago (1686) his Father ſhewed him a *ſmall* Log-houſe, ſtanding near *Chriſtiana* Bridge, on the *Weſt* Side of *Chriſtiana* Creek, about 5 Miles from *Newcaſtle*, and told him *that* was *Talbot's Fort*, and that it was kept by *Talbot's Men*. That the ſaid Fort was built *amongſt the Inhabitants* of the *County* of *Newcaſtle*, who owned Mr. *Penn* for their Proprietor and Landlord, ſeveral of whom lived *between the* ſaid Fort and the Province of *Maryland*. That this Deponent was informed *the Land* whereon the Fort ſtood, *was taken up*, *before* the Fort was erected, *by a Company under* the *York* Government; and heard one *Thomas Ogle* and his Brother *John*, ſay it was *their Land*, and that they claimed under their Father who was one of the Patentees; but knows not, nor ever heard, that it was taken up under the Government of *Maryland*. That the ſaid Fort was about thirteen or fourteen Feet long, and about 10 Feet wide, covered with Slip-Wood, and could not coſt, in the Deponent's Judgment, above *three or four Pounds*. That the Deſign of the Lord *Baltimore*, as he has been informed, in building and keeping Men in the ſaid Fort was, to keep Poſſeſſion of the Place, which he claimed. That about *ſix or ſeven Iriſh* Men, eſteemed *Roman Catholicks*, kept the Fort, who behaved *peaceably* towards the Inhabitants, amongſt whom they frequently went. That he knew of *no Inhabitants near the ſaid Fort, or within the County* of *Newcaſtle*, who *owned* the Lord *Baltimore*'s Authority at *that* time; But has *heard* there was *a* Tract of Land *ſurveyed* under the Lord *Baltimore*, within *three Miles* to the *Weſtward* of the ſaid Fort, which was *unſettled*. Believes the Inhabitants of *Newcaſtle* County could eaſily have *diſpoſſeſt* thoſe who kept the ſaid Fort; but they neglected

neglected to do it, becauſe the Men behaved themſelves quietly and civilly to them. That the ſaid Men had, ſometimes Plenty of Proviſions, but were generally in Want, which he *knows*, by their frequent going down *to Maryland*, and *there* preſſing Proviſions. That they lived in the Fort, to his *Knowledge about two Years*, and has heard they lived, *in all* about three or four Years, and left it upon ſome of their being *Froſt-bitten*, *ſince which time no Perſon*, pretending Authority from, or owing the Juriſdiction of, *Maryland*, was *ever* in poſſeſſion of the ſaid *Fort*, or *the Land thereabout*, to the Knowledge of the Deponent.

John Garretſon, aged 77. [*Lib.* B. *fol.* 7. *Int.* 22. *fol.* 8.] Has known the County of *Newcaſtle*, as long as he can remember. Says it was at firſt, under the Government of the Governour of *New-York*, and when his Power expired, has been under the Government of Mr. *Penn*, the Father of the Plaintiffs, and his Deſcendants.——That upwards of 50 Years ago [and he was examined, and ſo were *all* the *American* Witneſſes, in the Year 1740] there was *a Fort* built, and kept, by Lord *Baltimore* on the *North* Side of *Coriſtiana* Creek, about *five* Miles diſtant from *Newcaſtle*. That there were but *few* Families ſettled *thereabouts* at that time, *Four of which*, *beſides his own*, lived *between* the ſaid Fort and the Province of *Maryland*, but *more* that lived between the Fort and *Maryland* he can't certainly remember, which Families own'd Mr. *Penn* for their Proprietor and Landlord. That the Land, whereon the ſaid Fort was built, *was taken up*, *before* that time, for the Uſe of one *Ogle*, either under the Government of *New-York* or the ſaid *William Penn*, but is uncertain which. That the ſaid Fort was about 14 or 15 Foot long, and built of Logs, and covered with Clap-boards, and could not coſt above *two or three Pounds*, and was fronted with a few Paliſadoes about the Height of a Man. Believes the Deſign of Lord *Baltimore* in building the Fort, was to take *Poſſeſſion* of the Place. That the Fort was kept, ſometimes by *one or two*, but never above 7 luſty *Iriſh* Men to the beſt of his Remembrance, who lived *very peaceably* with the Inhabitants. That they were ſometimes in the Fort, at other times abroad, but one or more always remained in the Fort. Does not remember *any* Perſons who lived *near the Fort*, or in the *County* of *Newcaſtle* at that time, *owned* the Lord *Baltimore*'s Authority. Believes the Inhabitants of the ſame County, who owned Mr. *Penn*'s Government, could eaſily have *diſpoſſeſt* the People in the Fort of the ſame, if they had reſolved ſo to do; but that they declined ſo doing, becauſe they lived *peaceably* amongſt them. That the People in the Fort were chiefly ſupplied with Proviſions from *Maryland*, and ſometimes lived plentifully, at other times in Scarcity, and ſtayed there between 4 and 5 Years. That the leaving the Fort was occaſioned by the Men's getting ſuddled, and lying out in the Cold, whereby ſome were froze to Death, and others loſt their Limbs. *Since which time, to the Knowledge* of the Deponent, *no Perſon* pretending Authority from, or owning the Juriſdiction of, *Maryland*, has been in the Poſſeſſion of the ſaid Fort, or *any* Lands *thereabouts*. And the Reaſon of this Deponent's *Knowledge* of what he has declared on this Interrogatory is, that *he lived very near* to the ſaid Fort *at the time* of its Building and Settlement, and was *frequently in it*.

Note, Both theſe laſt Witneſſes about the Fort, the Defendant has croſs-examined to their being *intereſted* in the Event of the Cauſe *only*.——But the Defendant himſelf has examined a great many Witneſſes (in *Number*) many of which ſpeak only to this *Fort*, and to another Action, about burning the *Whore-kills*; which, if he had had Shame or Humanity in him, he ſhould rather have *concealed*. And his own Witneſſes, prove *every* Fact, above ſpoke to about the *Fort*.

John Taylor, aged 43. the Defendant's own Witneſs, but croſs-examined by us [*Lib.* C. *Fol.* 648. *Int.* 23. *Fol.* 649.] ſays, that near 20 Years ago, his Father, who was *Surveyor* of *Cheſter* County, ſhewed this Witneſs *a Line of markt Trees*, running Eaſtward from the *Mouth of* Octoraro Creek, on *Suſquehanna* River, and ſaid it was called Lord *Baltimore*'s or Colonel *Talbot*'s Line, and that it divided *Maryland* from *Penſilvania*.——This Witneſs's Father *then* ſaid, he had been informed by an *ancient Man*, an Inhabitant of *Maryland*, that the ſaid Line was run by Colonel *Talbot*, by the Order of Lord *Baltimore*, for a *Diviſon-Line* as aforeſaid; and that he this Affirmant's Father had written Orders or Directions from the Commiſſioners of Property in *Penſilvania*, not to ſurvey Lands to the *Southward* of *that* Line.——The Affirmant's Father then alſo ſaid that he had run the ſaid Line Eaſtward, from the Mouth of the ſaid Creek upwards of 20 Miles.——Says that the ſaid Line, for the length of *ſix or ſeven Miles* was afterwards ſhewn to him by *ſeveral ancient People*, who informed him that *they attended* Colonel *Talbot* in 1683, for *ſeveral Miles*, when he run and markt the ſaid Line.——About 15 Years ago the Affirmant having occaſion to enquire, concerning the Diviſion between the ſaid Provinces, the ſaid Line, near the Mouth of *Octorara* Creek aforeſaid, was *ſhewn* to the Affirmant by one *Joſeph Aſkew*, [*Note*, two other Witneſſes prove *Aſkew* to be dead] who *reſided thereabout*, and informed this Affirmant either that he ſaw the ſaid Line run, or, had been informed that the ſame was run, by Colonel *Talbot*, and 5 or 6 Gentlemen from *Maryland*, by Lord *Baltimore*'s Order, and was generally called by the Inhabitants there Lord *Baltimore*'s Line.——And that, *afterwards* the ſaid *Jonas Aſkew rid many Miles* along the Line *with this Affirmant*, *when the Marks* on the ſaid Trees were very *clear and apparent*.——Says alſo that, about 15 Years ago, he was *Sheriff of* Cheſter *County*, part of which, to the *Southward*, joins to the *Northern* Part of *Cecil* County in *Maryland*, and about that time being in Company with *John Hack*, who was then *Sheriff of* Cecil *County*, they *together* ſaw the ſaid Line which as it was ſaid was run and markt by Colonel *Talbot*, and they *both* called, and *eſteemed* it their *Diviſion-Line*.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 23. *Fol.* 133.] That in the Summer of 1700, the Proprietor *William Penn* took a Journey into *Maryland*, and, in his Return, was attended by divers Gentlemen of *Maryland* in his Journey from thence, up the River *Suſquehannah*, which Gentlemen having accompanied him as far as *Octorara* Creek, or River, ſtopt *there*, in the *Ford* as this Affirmant was ſoon after *credibly informed by ſome of the* Penſilvania *Gentlemen*, and *there took leave* of him, with Expreſſions to this purport, *viz.* Now we have waited on your Honour, *into your own Province*, and muſt deſire leave to return; To which the ſaid Proprietor anſwered, I hope I have been *in it ſome time ago*; which Information *led the Affirmant to enquire* into the *Reaſon*, and he was aſſured, thereupon, that the Lord *Baltimore* had in 1683, come up to the Mouth of the ſaid Creek or River of *Octorara*, and having made ſome *Obſervations* there, had directed Colonel *George Talbot* to proceed from *thence*, Eaſtward to *Delaware* River, and to mark on the Trees a *Line of Diviſion*; and that the Affirmant hath been aſſured, by divers Perſons, that they *ſaw* the ſaid Colonel *Talbot* and his Company in their ſaid Journey to the ſide of *Delaware* River, and had *frequently ſeen* divers of the ſaid markt Trees, and traced the Line, from thence, Weſtward *for ſome Miles*. That, upon the Truth of this Information the Affirmant ſo intirely *depended*, that being *Secretary and Commiſſioner of Property*, upon the Application of *Cornelius Empſon*, *William Brown*, *Andrew Job*, and divers others, who petitioned for a Grant of that Tract of *rich* Land now called *Nottingham*, at the Affirmant's Inſtance it was *wholly declined*, till ſuch time as the Applicants had produced *unqueſtionable Evidence*, that the moſt *Southern Part* of the ſaid Tract lay at leaſt the Diſtance of one Mile to the *Northward* of the ſaid Line, run from the Mouth of *Octorara* as aforeſaid; upon which the ſaid Tract was granted to them. That the Affirmant *never heard* the ſaid Line *diſputed* for a *Boundary*, till by a Letter from *Charles Carrol* then Agent for *Maryland*, the Affirmant found the ſaid Agent did not own the ſaid Line as a *peremptory* Diviſion; which induced the Affirmant to enquire *further* into the *certainty* of the ſaid Boundary; and in order thereunto he found *a Copy of a Writing* left *by the ſaid Colonel* Talbot at *Philadelphia*, with *Nicholas More* Preſident, *in the Abſence of the Proprietor* William Penn, who was then at *New York*, containing *a Commiſſion* from the Lord *Baltimore* to the ſaid Colonel *Talbot*, dated the 17th of *September* 1683, requiring him to repair to *Schuylkill*, and there demand, from the ſaid *William Penn*, poſſeſſion of *all* the Lands on *Delaware*, to the *Southward of the ſaid markt Line*, as alſo a *Demand* in writing dated the 24th of the ſame Month, made by the ſaid Colonel *Talbot*, *in purſuance of the ſaid Commiſſion*; as alſo a *Writing ſigned by the ſaid* William Penn, dated the 31ſt Day of *October* then next following; which being upon the *ſame Paper* with the aforeſaid Copies, being, as the Affirmant is well aſſured, *ſigned by the ſaid Proprietor's own Hand*, immediately induced him to believe, and the Affirmant does *firmly believe*, that the ſaid Copies of the Lord *Baltimore*'s Commiſſion, and of the ſaid Colonel *Talbot*'s Demand, are *true*, *genuine and authentick*; and the Affirmant alſo procured ſundry *other Vouchers* for the Truth of the ſaid Line; but, as the Affirmant is not immediately furniſh'd with any of them, refers to them when produced. And further ſaith, that *he heard* divers times from *Henry Hollingſworth*, who formerly was *Clerk*, and *Surveyor* in *Cheſter* County, and is *long ſince dead*, That one of thoſe who were employ'd to run the ſaid Line, and afterwards lived in the Town of *Cheſter*, had *frequently affirmed* in his hearing, that after the firſt day's Journey, the ſaid Colonel *Talbot* made a *Sett off* to the *Northward*, before *he* reſumed the ſaid Line on an Eaſtern Courſe.

James Logan, [*Lib.* B. *Fol.* 76. *Int.* 24. *fo.* 142.] Saith there never was, to *his* Knowledge, and he has *all the moral Certainty* that *can* be had, in ſuch caſe, that there *never was any Grant or Survey*, made by the Proprietors of *Penſilvania*, or under their Authority, of *any Lands*, *more or leſs*, neither have they themſelves, or any Perſon by their Authority, exerciſed *any Acts of Government* to the *Southward* of the Bounds, Limits or Line of *Diviſion aforeſaid*, and to the *Weſtward* of the Limits of the three Lower Counties aforeſaid. And ſaith, that after the ſaid Settlement of *Nottingham* and the Settlers thereof, by their *large* Improvements, had rendered themſelves conſiderable, the Lord *Baltimore*'s Agents for *Maryland*, (as the Affirmant conceives) beginning to think theſe Parts worth their Notice, ceaſed not to claim them; in ſo much, that in the Year 1722, not only *Iſaac Taylor* the Surveyor of *Cheſter* County aforeſaid, was taken, by a Warrant from the Juſtice of *Maryland*, for ſurveying ſome Land ſituate to the *Northward* of the ſaid *Line*, but alſo *Eliſha Gatchell*, going to viſit the ſaid Surveyor, and to inquire into the Cauſe of his being ſo apprehended, was likewiſe ſeized, and both the ſaid *Taylor* and *Gatchell* were committed to the Cuſtody of the Sheriff of *Cecil* County, and ſometimes to the Priſon it ſelf, and were much harraſſed for near one whole Year, being removed thence to the ſupreme Court of *Annapolis*, and there, at length *acquitted*; but the Affirmant having taken a Voyage to *London*, in the Fall of the Year 1723, and making a Complaint thereof to *Charles Lowe*, then the Lord *Baltimore*'s Agent in *London*, the ſaid Lord and *Hannah Penn*, Executrix of the late Proprietor *William Penn*'s Will, entred into an Agreement dated the 17th of *February* 1723, that the Poſſeſſors of Lands in *both* Provinces ſhould remain quiet and unmoleſted, during the Space of 18 Months, in which time it was hoped, the Boundaries would be effectually ſettled; of which Agreement ſigned by the Lord *Baltimore* himſelf, and the ſaid *Hannah Penn*, jointly with *Henry Goldney* and *Joſhua Gee*, two of the *Truſtees* for the ſaid Province of *Penſilvania*, and witneſſed by *Simon Clement*, the ſaid *Charles Lowe*, and the Affirmant, *three Originals* of the ſaid Agreement were executed, on each ſide; which Agreement being tranſmitted to the reſpective Governors of both the ſaid Provinces, with Orders on each ſide, that the ſame ſhould in purſuance of the ſaid Agreement, be proclaimed in each Province; the ſaid Orders were accordingly obeyed in the Province of *Penſilvania*, and were in *general* obſerved in *both* Provinces, *till, after the Arrival of Governor* Ogle in *Maryland*, in the latter End of 1731, notwithſtanding *he well knew* that the Lord *Baltimore* had entered into *an Agreement* with the Proprietors of *Penſilvania*, for putting a *final Period* to all their Diſputes, of which *he*, by *his* Letter, accordingly *adviſed* Colonel *Gordon*, then Governor of *Penſilvania*, yet *he* renewed the former Diſturbances.

John Taylor, aged 43. [*Lib.* C. *Fol.* 648. *Int.* 24. *Fol.* 653.] Ever ſince he knew the ſaid Line, as far as he knows, or has heard and believes, the *Penſilvania* Inhabitants in general, and the Proprietors of that Province, their Agents, Commiſſioners, Magiſtrates, Surveyors and Officers, have *always* eſteemed, regarded and obſerved the ſaid Line *as a Diviſion* between the Provinces of *Maryland* and *Penſilvania*, and neither the *Penſilvania* Proprietors, nor any under their Authority, did *ſurvey* any Lands, or exerciſe *any* Acts of Government, to the *Southward* of that Line, to the Knowledge or Belief of this Affirmant.——That by converſing with ſeveral of the Inhabitants of *Maryland* before 1726, or 1727, *always* heard and believes that the People of *Maryland*, *till about thoſe Years*, thought the ſaid Line was *the Diviſion* of the ſame Provinces.——But has heard and believes that *ſince* thoſe Years, Lands have been *ſurveyed* under the Proprietor of *Maryland*, and Acts of Government have been exerciſed by *his* Magiſtrates and Officers, to the *Northward* of the ſaid Line.

10th Branch about the *Indian* Purchaſes made by the *Dutch* and *Swedes*, and Mr. *Penn*, and of his exerciſing the Government of the Lower Counties from 1682, to 1702.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 12. *Fol.* 121.] That the *Dutch*, as he is well aſſured, and, as he believes, the *Swedes*, having purchaſed from the *Indians*, the greater Part of the Lands below *Duck Creek* in the ſaid three Lower Counties, the ſaid *William Penn*'s Commiſſioners in 1685, for a *large Conſideration*, made a *very extenſive Purchaſe* of Land *from the Indians*, from the ſaid *Duck Creek*, *as far North* as *Cheſter* or *Upland Creek*, which is reputed by Travellers, no leſs than 60 Miles, which *laſt* mentioned Place, in common Eſtimation, lies not above five Miles to the Northward of the Northern Boundaries of the ſaid Counties. And ſaith, that *only* the ſaid *William Penn*, and *his* Deputies, *exerciſed the Government* in and over the ſaid Province of *Penſilvania*, and *three Lower Counties* of *Newcaſtle*, *Kent* and *Suſſex*, from 1682, to 1702, (excepting for ſome time in the Years 1693 and 1694, to the beginning of 1695, when King *William* and Queen *Mary*, by Commiſſion to *Benjamin Fletcher* Eſq; then Governor of *New York*, authorized *him* to take the ſaid Government under his Care, alledging for a Reaſon *the Proprietor's abſence from the ſame*; but by other Letters Patent, dated in *Auguſt* 1694, *reſtored* the Government of the ſaid Province and *Counties* to the ſaid *William Penn* and his Heirs as *before*) and ſaith *William Penn*, only made *two* Voyages from *England* to *America* between the Years 1680 and 1703.

11th Branch, Proving Mr. *Penn*'s *conſtant Poſſeſſion* as Landlord and Proprietor ever ſince 1681 and 1682; *his* granting out of the *Lands*; appointing great Numbers of *Collectors* and Receivers of *Quit-Rents* in all the Lower Counties, and *receiving Quit-Rents*.

Samuel Preſton, aged 75, [*Lib.* B. *Fol.* 312. *Int.* 9. *Fol.* 317.] has lived in the three Lower Counties and *Penſilvania* about 52 Years, was *Sheriff* of *Suſſex* about 1690, and in ſome little time before or after, a *Juſtice of Peace* for that County. In 1700 was a *Councellor* for that County by the Election of the People. Has been a *Member* of the Governor's *Council* for the Province of *Penſilvania* above 20 Years laſt. Has been *Treaſurer* of that Province about as long. Has been an *Alderman* for the City of *Philadelphia* about 30 Years, was *Mayor* of that City in 1711.——That *ever ſince* he has known the ſaid three Lower Counties and the Province of *Penſilvania*, they *have been in the Poſſeſſion* of the Duke of *York* and *William Penn*, and thoſe claiming under him, *as Proprietors and Landlords* of the ſame, ſucceſſively.——When he firſt knew *Kent County*, it was the Practice of the *County Courts* in the ſaid Lower Counties, as he was informed and believes, to grant Warrants and Survey Lands, and thereupon Patents were granted for thoſe Lands by *the Government of* New York; but that, *always after* William Penn *obtained* the Government of the ſame Counties and Province of *Penſilvania*, hitherto, *he the ſaid* William Penn, and thoſe claiming *under him*, have, ſucceſſively, appointed the *Officers*, *Commiſſioners*, and *Managers of Property*, in the ſaid Province and Counties.——And *never knew* that the Defendant, or his Anceſtors, *ever were in Poſſeſſion* of the ſaid Province of *Penſilvania*, *or the ſaid Counties*, as a Proprietor or Landlord of them.——Or——that the Officers, Commiſſioners or Managers of Property for the Lord *Baltimore ever* granted out *any* Lands or Plantations within the ſame Province or *Counties*.——*He has known* that *William Penn* deceaſed, and the Widow *Hannah Penn*, Mother of the Plaintiffs (likewiſe deceaſed,) by Virtue of the ſaid *William Penn*'s Will, and the preſent Plaintiffs, have been ſeverally and ſucceſſively in the Poſſeſſion of the ſame Province and *Counties*, as Landlords, Landladies, and Proprietors of the ſame Province and Counties; and has heard and believes that *William Penn* was in the Poſſeſſion of the Province of *Penſilvania* from 1681, till this Witneſs firſt knew the the ſame Province.——That he *knew* the ſaid *three Lower Counties* before 1682. And *ſince that Year*, the ſaid *William Penn*, and thoſe claiming under him, have, *always* been

been in Poſſeſſion of the ſame.——This Witneſs never held any Office which gave him an opportunity of inſpecting *Records*, and *thereby* becoming acquainted with *Grants* and Titles of Lands in the ſaid Province and Counties, but has occaſionally, ſeen *ſeveral* Grants of Lands in the ſaid Province and Counties, which, ſince the Year 1682 were *all* made by the ſaid *William Penn*, and thoſe claiming under him; and hath *never* ſeen *any* Grants for Lands in the ſame Province *or Counties* from or under the Lord *Baltimore*, or any of his Anceſtors.

Note, The Defendant has croſs-examined Mr. *Preſton* to a whole Sett of Interrogatories.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 9. *Fol.* 97.] From 1701 has held the ſeveral Offices of *Secretary*, *Commiſſioner of Property*, *General Receiver of the Proprietors Dues*, and one of the *Governor's Council*, and continued in them *many Years*. On Governor *Gordon*'s Death in 1736, he was, for near two Years, till the Arrival of the preſent Governor, *Preſident of the Council*, and as ſuch, had the *Adminiſtration of the Government* in *Penſilvania*, and *then*, diveſted himſelf of *all Offices* in the ſaid Government.——That for ſeven Years from the Year 1716, he was *Preſident* of the Court of Common Pleas for *Philadelphia* County; and from the Year 1731, for 5 Years, he was *Chief Juſtice* of the ſupreme Court of that Province, which he was obliged to lay down, upon his coming to the Adminiſtration of the Government.——That ever ſince he knew the ſaid Province and three Lower Counties, the ſaid *William Penn* and his Deſcendants, have *always* been in Poſſeſſion of the ſame Province and Counties as Proprietors and Landlords thereof, except when the ſaid *William Penn* was obliged to veſt the ſame in Truſtees for the Payment of a conſiderable *Debt* contracted by him; during which time the ſaid *William Penn*, his Truſtees and Deſcendants, have ſucceſſively appointed the Officers, Commiſſioners, and Managers of Property, for granting out Lands in the ſaid Province and Counties—he has—neither *heard*, nor does believe, that Lord *Baltimore*, or his Anceſtors, *ever* had *any* Poſſeſſion or Management, in or of the ſaid Province, *or the ſaid Counties*, *or any part of them*, except by an Intruſion and forcible Entry made, in or about 1685, by ſome of Lord *Baltimore*'s Officers, upon the Land of one *John Ogle*, near *Chriſtiana* Creek, of which the ſaid *Ogle* had been long in Poſſeſſion, and building a *ſmall inconſiderable* Fortreſs there.——Says he is *very ſure* the ſaid *William Penn* only, was *always* in Poſſeſſion of the Province of *Penſilvania* from 1681, till this Witneſs firſt knew that Province, and alſo of the ſaid Counties from the Year 1682, till this Witneſs's firſt Knowledge of them.—He has *ſeen* ſeveral of the Records of the ſaid Province, but it was never his *Buſineſs* to inſpect any of them.—That as *Secretary as aforeſaid*, he had occaſion, ever ſince the Beginning of the Year 1700, to inſpect *great Numbers* of the *moſt ancient* Grants as well as others, and Titles of the Tenants and Occupiers of Lands in the Province of *Penſilvania* and the *ſaid Counties*, *made before* the Year 1700; and *never ſaw one Grant*, during that time, of *any* Lands in the ſaid Province or *Counties*, from Lord *Baltimore*, or any of his Anceſtors, or from any other under his or their Authority.——The *moſt ancient* of all which Grants that he has ſeen, were from *Mynheer Stuyveſant*, who was Governor for the *Dutch* at the time when the Lands were under *their* Government; and after the Year 1664, from *Richard Nicho's*, *Francis Lovelace*, or Sir *Edmund Andros*, the ſeveral Governors *at New-York*; and, from the Year 1682, from the ſaid *William Penn* or his Commiſſioners.——That during the Year 1700, and to *November* 1701, the ſaid *William Penn* ſigned all the Grants of Lands in the ſaid Province and *Counties*; and that from *November* 1701, this Witneſs, as one of the Commiſſioners of Property for *William Penn* and the Truſtees aforeſaid, ſigned almoſt every Grant for Lands in the ſaid Province and Counties, until the Death of the ſaid *William Penn*; and from his Deceaſe, this Witneſs, being duly authoriſed for that purpoſe, continued to ſign *all* the Grants that were made of *any* Lands in the ſaid Province or *Counties*, until the time the Plaintiff *Thomas Penn* arrived in the Province in 1732; the other Commiſſioners of Property ſurceaſing to act during the Witneſs's Abſence on a Voyage to *England*. That the *Number* of thoſe Grants and Titles was *great*, but he never kept any Account of them.

Note, The Defendant croſs-examined this Witneſs, only as to his being intereſted in the Event of the Cauſe, or holding any diſputed Lands, which he, in the moſt preciſe, full and abſolute Terms utterly denied.

Theſe two Perſons, having long known the Country, and gone thro' all theſe publick Offices, were the propereſt Perſons to know theſe Matters, but what they ſay in General, and at once, is no more than what is confirmed, peacemeal, by a Cloud of other Witneſſes, (even the Defendant's own Witneſſes,) and by the Records themſelves.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 127. *Fol.* 625.] Has known *Penſilvania* and the three lower Counties above 32 Years——He was and acted, for *many Years*, as a Juſtice of Peace in *Kent* County ——And was, afterwards one of the Juſtices of the *Supreme Court* for the ſaid *three* Counties——About that time was alſo appointed and continued for *many Years*, *Receiver* of the Quit Rents and other Revenues accrewing to the Proprietors of *Penſilvania* in the ſaid Province, and alſo in the ſaid *three Counties*——For about ſeven Years paſt has acted as *Receiver General* under the *Penſilvania* Proprietors for that Province and the ſaid three lower Counties——Ever ſince his *firſt* Knowledge of the ſaid Province and Three Counties, Mr. *Penn* and his Family and Deſcendants, or Perſons under their Authority, have *all along*, *to this preſent Time*, been in Poſſeſſion of the ſaid Province and three Lower Counties *as Landlords and Proprietors thereof*, and have all along appointed the *Magiſtrates*, *Officers and Commiſſioners of Property* for the granting of *Lands* within the ſaid Province and Counties——And *never* knew Lord *Baltimore*, or any of his Anceſtors, in Poſſeſſion of the ſaid Province and Counties as Proprietor or Landlord thereof, ſince this Affirmant knew the ſame; nor did he ever know the ſaid Defendant, or any of his Officers, Commiſſioners or Agents, to grant out the ſeveral Lands within the ſaid Province and three lower Counties, or *any* of them.——And has *heard and believes* the ſaid Mr. *Penn* was always in Poſſeſſion of the ſaid Province and three lower Counties, *from* 1681, as Proprietor or Landlord thereof, *unto the time* he firſt *knew* the ſame.

Benjamin Eaſtburn aged 44 [*Lib.* C. *Fol.* 678. *Int.* 128. *Fol.* 714.] Has ſeen in the *Office* of *Surveyor General* of *Penſilvania*, and the three Lower Counties, (which he *now* holds) *Great Numbers* of *Original* Warrants and Surveys for the granting Lands in the ſaid Province and *Counties*; which *all* appear to be made *either* under the Government of the Province of *New York*, *or* by *Courts* who acted under the *ſame* Government, *or* under the Authority of Mr. *Penn* deceaſed, formerly Proprietor of *Penſilvania*, or thoſe who have claimed under *him*; *but never* did ſee *any* Grants or Titles for or to Lands in the ſame Province or *Counties*, which were made or derived under the Defendant or his Anceſtors, or his or their Commiſſioners or Officers——That by *Warrants* now *lodged in the ſaid Office*, it appears that Mr. *Penn* and thoſe claiming under *him*, before *June* 1735, have granted near and about 330,000 Acres of Land, lying *in the ſaid Counties* of *Newcaſtle*, *Kent* and *Suſſex*——And that the *Dutch* and *Engliſh* Governments, at *New York* aforeſaid, had granted *very large* Quantities of Land there, *before* Mr. *Penn*'s Right to the ſaid Counties, to the amount of near 100,000 Acres as he believes, *under which ſame Grants* divers Perſons, there reſiding, *claim* and *enjoy* thoſe Lands *to this Day*.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 128. *Fol.* 629.] Has ſeen *ſeveral* Grants for Lands within *Penſilvania* and the Lower Counties, not only amongſt the *Records* kept at *New York*, but alſo in the Hands of ſeveral of the Occupiers of ſuch Lands, bearing Date *before* 1681, and made by the Governor of *New York*. And that under ſome of thoſe Grants *ſome* of ſuch Occupyers as he believes *ſtill continue* to hold their Lands, *under the Plaintiffs*, but the *greater Number* of the Occupyers and Claimants of the Lands under ſuch *old* Grants, have *ſince renewed* their Grants for *ſuch* Lands with and under Mr. *Penn* and his Deſcendants, and thoſe claiming under him——He has alſo ſeen *great Numbers* of Grants and Titles of Lands within the ſaid Province and three lower Counties, bearing Date *ſince* 1681, as well upon and amongſt, the ſeveral *Records* kept in and for the ſaid Province and Counties, as in the Hands of ſeveral of the Owners and Occupyers of *ſuch* Lands——And ſays that *all* the ſame Grants appeared to him to have been made by and under the Authority of Mr. *Penn*, his Family and Deſcendants, and does not remember *ever* to have ſeen *any* Grants for Lands within the ſaid Province and three lower Counties, which were made by or under the Defendant, or any of his Anceſtors, or his or their Commiſſioners, Agents or Officers for Property——Says that by and from his *inſpecting and examining* the ſeveral Memorials, Minutes and Entries of Lands granted within the ſaid three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, which are kept in the *Office of the Surveyor General* for the ſaid Province and three lower Counties, he computes and believes there were near or about 100,000 Acres of Land within the ſaid three lower Counties granted *before* 1682, by or under the Authority of thoſe under whom *William Penn* claimed; and that, *ſince* that Time, and *before June* 1735, there have been *near* or about 328,000 Acres of Land, *within the ſaid three lower Counties*, granted by Mr. *Penn*, his Family and Deſcendants, and thoſe claiming Authority under him and them——Says that by and from ſeveral *ancient Books*, Papers and Memorials, now in his Cuſtody as *Receiver General* under the Plaintiffs as aforeſaid, he finds and *believes*, that, *ſoon after* the Grants of the ſaid three lower Counties to *William Penn*——*John Hill*——*Samuel Preſton*—*William Clarke*——and *Thomas Fiſher* were appointed by or under *William Penn* to be *his Receivers and Collectors of Rents and Quit Rents*, from the Tenants and Occupyers of Land in the ſaid County of *Suſſex*; and that—*George Martin*—*William Berry*—*Samuel King*—and *William Rodeney*—and ſometimes the ſaid *William Clarke*——were alſo appointed by or under the ſaid *William Penn* to be his *Collectors and Receivers* of ſuch Rents in the ſaid County of *Kent*——And alſo that *Edward Gibbes*—*George Dakeyne*—*Cornelius Empſon*—and *John French*—were alſo appointed by or under the ſaid *William Penn* to be ſuch his *Collectors and Receivers* in and for the ſaid County of *Newcaſtle*—And that *James Atkinſon*—was in like Manner appointed to receive ſuch Rents in *all the ſaid three Counties*—*All* and *every* of which ſaid *ſeveral* Collectors and Receivers this Affirmant *finds* by the ſame *ancient Books* and Papers, and *believes*, did *actually* receive, *divers* and *conſiderable* Quit Rents from the then ſeveral Tenants and Occupyers of Lands in *each* of the ſaid *three* Counties, *for the Uſe of the ſaid* William Penn—And ſays that, ſince *his* being appointed Receiver and General Receiver as afore ſet forth *he* has alſo received, *from time to time*, from the Tenants and Occupyers of Lands in *each* of the ſaid *three* Counties *divers* and *conſiderable Quit Rents for the Uſe of* William Penn, his Family and Deſcendants——And ſays he *believes* and is *well ſatisfyed*, that *all and every* of the ſaid Tenants or Occupyers of *Lands*, within the ſaid three Counties, which are herein before mentioned to be held *under* the ſaid *ancient Grants* from the Governor of *New York* as aforeſaid, have at one Time or other, paid *ſome Part* of their Quit Rents, for *ſuch* Lands, to, or to the Uſe of the ſaid *William Penn*, his Family or Deſcendants, or ſome of them.

James Logan aged 66. [*Lib.* B. *fol.* 76. *Int.* 10. *fol.* 106] That *William Penn* did, from time to time, appoint the ſeveral *Officers* for collecting the *Quit Rents* from the Tenants and Occupiers of Lands in the ſaid three lower Counties; and that *no other* Officers or Collectors were ever appointed for that purpoſe by or under any other Perſon but the ſaid *William Penn* and Perſons under his Authority, from the time of the ſaid *William Penn*'s firſt becoming Proprietor of *Penſilvania* and the ſaid three Counties, as this Witneſs ever heard or underſtood——And ſays there has been *conſiderable Quit Rents received* from the Tenants in the ſaid three Counties, by the ſaid Officers and Collectors ſo appointed by the ſaid *William Penn* and under his Authority as aforeſaid——Says the Names of *ſome* of the ſaid Collectors of Quit Rents ſo appointed by the ſaid *William Penn* and under his Authority, were *Samuel Land*, *Edward Gibbs* and *George Dakeyne*, with ſeveral others, for the County of *Newcaſtle*; and *William Clarke*, principally, for the Counties of *Kent* and *Suſſex*; But there were *divers others* whoſe Names do not at preſent occur to his Memory.

12th Branch, That conſtant *Annual* Aſſemblies, have been held, for the Lower Counties, under Mr. *Penn* from 1682; Courts of Juſtice *always* held there, under *his* Authority; And *none* of the Inhabitants of thoſe Counties ever elected into the *Maryland* Aſſembly.

Samuel Preſton aged 75 [*Lib.* B. *fol.* 312. *Int.* 30. *fol.* 337] Says that upon Proprietor *Penn*'s firſt coming to *Penſilvania* and ſettling the Conſtitution thereof, and of the three Lower Counties, the Members or Repreſentatives, who were elected by the People in and for the Province, and in and for the ſaid Counties, ſate in and made but, *one united* Houſe of Aſſembly under the Government of the ſaid *William Penn*; And that the ſaid three lower Counties were *thereupon* called the *Territories of* Penſilvania; But, ſome time after Mr. *Penn*'s ſecond Departure from *Penſilvania*, the Repreſentatives of the People *divided*, and ſate in, or made *two ſeparate* Houſes of Aſſembly, *one* for the Province of *Penſilvania*, and the *other* for the three lower Counties; which were, *from that time*, called the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*. Doth not know *how many* Aſſemblies have been held in the ſaid Province and Counties, but ſays the ſame have been, *always*, held under *William Penn* his Family and Deſcendants —— Says there have been *Courts of Judicature* held in the ſaid three lower Counties *ever ſince his being acquainted therewith*, which have *always* been, and *ſtill are*, held under the ſaid *William Penn* his Family and Deſcendants, and *not* under the Defendant or his Anceſtors, or any other Perſon or Perſons whatſoever.

James Logan aged 66. [*Lib.* B. *fol.* 76. *Int.* 30. *fol.* 154] Says that from 1682 there have been, to the beſt of his Knowledge, *conſtant Annual Aſſemblies*, and alſo *Courts of Juſtice*, held, down to this time, in *Penſilvania* and the ſaid Lower Counties, under the Authority of *William Penn* and his Deſcendants——And never *knew* or *heard* of any Aſſemblies or Courts of Judicature *whatſoever*, held in the ſaid Province or the ſaid three lower Counties, or *either* of them, under the Authority of the Defendant or any of his Anceſtors.

John Ball aged 69. [*Lib.* B. *fol.* 15. *Int.* 30. *fol.* 22] Has known the Lands *now* called *Penſilvania* 64 Years, and the County *now* called *Newcaſtle ſixty two* Years, in which County he has lived 54 or 55 Years——That *formerly* the Repreſentatives of the ſaid three Counties, and of the ſaid Province, compoſed *one joint* Aſſembly, but, for near 30 Years paſt, the Repreſentatives of the ſaid Counties have made a *diſtinct* Aſſembly——*All* which Aſſemblies have been *always* held under the Proprietors of *Penſilvania*, and *never* under the Proprietors of *Maryland*——That there have been *Courts of Judicature* held in the ſaid Counties, *which as long as he remembers*, were *always* held under the Proprietors of *Penſilvania*, and *not* under the Proprietors of *Maryland*; but has heard there were *Courts* held at the Town, *now* called *Newcaſtle*, formerly *Sandbook*, and at the Town *now* called *Cheſter* in *Penſilvania*, formerly called *Upland*, by the *Dutch*.

* *John Garretſon* aged 77. [*Lib.* B. *fol.* 7. *Int.* 30. *fol.* 13.] Has known the Province of *Penſilvania* and the County of *Newcaſtle*, which was formerly called *Sandbook*, *as long as he can remember*, but was not well acquainted with the lower Counties, but heard the loweſt County was called *Whorekill*, and the next above it *Jones's*. That, for about 30 Years paſt the Province of *Penſilvania* and the three lower Counties have been repreſented by *different* Aſſemblies, but, *before* that time the Repreſentatives were joined, and compoſed but *one* Aſſembly for the *whole*——That the ſaid *Aſſembly* for the ſaid Counties, during theſe 30 Years, have been elected *annually*, and were *always* held under Mr. *Penn* and his Deſcendants, and *never* under Lord *Baltimore*; That *Courts of Judicature* have been *always* held in the ſaid Counties as long as he can remember, under Mr. *Penn* and his Deſcendants *only*.

Jeremiah Langborne aged 66. [*Lib.* C. *fol.* 719. *Int.* 30. *fol.* 721] Has *known Penſilvania* and the three lower Counties above *fifty four* Years——Ever ſince he can remember till 1701 the Repreſentatives choſen by the People of the ſaid Province and Counties did compoſe *one joint* Aſſembly to make *Laws* for Government of ſaid Province and Counties——And in 1699 or 1700 this Affirmant was choſe a Repreſentative for *Bucks* County, and met the other Repreſentatives for the Province of *Penſilvania and* the Repreſentatives choſen for the ſaid *Counties*, at *Philadelphia*; where they made *one joint* Aſſembly——And that from 1701 or 1702 (to the beſt of his Memory) to this Time, the Repreſentatives of the ſaid Province and Counties have compoſed *two diſtinct* Aſſemblies——Believes there have been *Annual* Aſſemblies held for the ſaid Counties (*either* in Conjunction with that for *Penſilvania*, or ſeparately as aforeſaid) *ever ſince he knew the ſame*——Never heard, or knew that *any* ſuch Aſſemblies were held by or under any *other* Authority *than* that of Mr. *Penn*. ——Has heard and believes *that Courts of Judicature* have been held, from time to time in the ſaid Counties, ever ſince he knew them, which as he has heard and believes were *always* held under the Authority of Mr. *Penn*.

John

John Webſter of *Maryland* aged 72, Defendant's Witneſs, croſs-examined [*Lib.* E. *fol.* 22. *Int.* 5. *fol.* 23] Says there is an *Aſſembly* of the Repreſentatives of *Maryland*, which is a Part of the *Legiſlature* of *that* Province, but knows not, that *any* Perſons were *ever* elected, in *any* of the three lower Counties, to ſerve in *that* Aſſembly.

Benjamin Tasker of *Maryland* aged 50, Defendant's Witneſs, but croſs-examined [*Lib.* E. *fol.* 49. *Int.* 5. *fol.* 52.] Speaks in the *ſelf-ſame* Words with *Webſter*.

13th Branch, To prove that the very Acts of Aſſembly paſt in Lord *Baltimore*'s own Province of *Maryland* do from time to time call the Lower Counties, *the Territories of* Penſilvania, and tax Goods coming from thence, or carried thither, as Goods coming to or going from *another diſtinct Province*, And that thoſe Laws are from time to time *enforced* and put in Execution.

Edward Chambres of *Maryland* aged 51. [*Lib.* C. *fol.* 456. *Int.* 111. *fol.* 459] Has lookt upon the produced *printed Book, intitled*, A Collection of the *Laws* of *Maryland*, collected and printed by Authority at *Annapolis* in 1727. Says that Book is well known in *Maryland*, and received and allowed as Authority in the Courts of that Province as *the Laws thereof*. As to Page 49 in the Act to prevent exporting of Tobacco by Land, ſays that by the Words *(Territories thereunto)* immediately following the Words *Province of* Penſilvania in the 3d Line, and *again* in the 5th Line, are meant the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, as he underſtands and believes——As to Page 157 in the Act laying an Impoſition on Negroes and other Things, ſays that the like Words there, have the like Meaning as he underſtands and believes.

Edward Chambres [*Int.* 122. *fol.* 462.] Has lived in *Maryland* 11 or 12 Years, and has held the Office of *Collector* of his Majeſty's Cuſtoms for the Port of *Potomoke* in that Province *during all that time*. Is acquainted with the Trade and Navigation of that Province, and with the *Duties* ariſing upon *Shipping*, and *Cuſtoms* or *Duties* upon Goods imported or exported into or out of that Province——Says that Ships and Veſſels trading into and out of the ſaid Province pay Tonnage of 17 *d. Sterling per* Ton, which is paid to the ſeveral *Naval Officers* of that Province. And that 14 *d.* of the ſaid Tonnage is received for the Uſe of the *Defendant*, and the remaining 3 *d.* for the Uſe of the Governor of that Province —— But by what Authority the 14 *d.* a Ton is demanded, or received, he knows not. Has lookt on the 44*th* Page of the ſaid Book of the *Laws* of *Maryland*, into the Act there for confirming to the Governor 3 *d.* a Ton upon Ships and Veſſels, And ſays that Ships or Veſſels *built in* or belonging to the People of the Counties of *Newcaſtle*, *Kent* and *Suſſex*, and trading into *Maryland*, do and have paid the ſaid Duty ever ſince he came into his Office of Collector, but for how long before knows not——And has lookt on the 30th Page, and ſays the People *of the ſaid Counties* who have ſuch a ſeated Plantation as there mentioned, where they have with their Families, reſided for a whole Year, *within the ſaid three Counties*, or *any* of them, are *not* intitled to the Privilege of *Reſidents in the Province of* Maryland within the Meaning of that Act——And the *Reaſon* of his Belief is *becauſe ſuch* People of the ſaid Counties *live in another Government*.

William Rumſey of *Maryland*, aged 42, the Defendant's Witneſs being croſs-examined [*Lib.* E. *fol.* 25. *Int. Additional* 5. and 6. *fol.* 26. and 28] Says he holds the *Naval Office* of *Cecil* Diſtrict under the Governor of *Maryland*, the *Deputy Commiſſary's Office* of *Cecil* County under Mr. *Dulany* Commiſſary General, the *Deputy Surveyor's Office* of the ſaid County under Mr. *Harris*, Surveyor General of the Eaſtern Shore, is Receiver *of the Rents* of two Mannors for Lord *Baltimore*, under Authority from the Governor, is a *Juſtice of Peace* in *Cecil* County, and a Repreſentative for that County in the Aſſembly. And ſays he has lookt on the Book produced markt 3. And it's *well known* in *Maryland*, and is generally received and allowed as of Authority in *all* Courts within that Province, *as the Laws* of that Province, and has lookt upon the 49, 73, and 157 Pages, and that by the Words *(Territories thereunto belonging)* in thoſe ſeveral Places immediately after the Words (*as of the Province of* Penſilvania) *he underſtands and believes* the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware* are meant.

Note, This Man with all theſe Offices is one of thoſe who gave the Opinion as a Surveyor that the Circle ſhould be only two Miles diſtant, and he is one that ſwears to an Opinion about the Extent of Lord *Baltimore*'s Charter.

Benjamin Tasker of *Maryland*, aged 50, the Defendant's Witneſs, but croſs-examined [*Lib.* E. *fol.* 49. *Int.* 5. *Additional*, *fol.* 57. *Int.* 3. *Original*, *fol.* 51. and *Int.* 6. *Additional*, *fol.* 58] Says *fol.* 57. That he holds the ſeveral following Offices of Truſt and Profit in *Maryland*, viz.—— One of the Defendant's *Council of State*—— *Agent*—— and *General Receiver*—— and *Naval Officer* of the Port of *Annapolis*——by Appointment of the *Governor* of *Maryland*—— alſo Surveyor of the Cuſtoms by Commiſſion from the Commiſſioners of the Cuſtoms at *London*, and Mayor of *Annapolis* by Election purſuant to the Charter of that City——— *Fol.* 51. That he *never* knew or *heard* the three lower Counties called by any *other* Names than *Newcaſtle*, *Kent* and *Suſſex*, and the three lower Counties, and (as he *thinks*) by the Name of the *Territories of* Penſilvania; but whether they were called ſo by the *Government* or *Legiſlature* of *Maryland*, *knows not*. [He did not know what we were going to ask him, for] *fol.* 49. he has lookt upon the printed Book markt N° 3. and ſays it's a Book *well known* in *Maryland*, and is *conſtantly* received and allowed *as Authority* in *all* the Courts of Judicature within that Province as Part of the *Laws* of that Province (except ſuch of the Laws therein contained as have been repealed, annulled or expired ſince the publiſhing the ſame) And he ſays that by the ſame Words, *Territories thereunto belonging*, in the Laws, *fol.* 49, 73, and 157, the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, are meant and intended.

John Webſter of *Maryland* the Defendant's Witneſs croſs examined, aged 72. [*Lib.* E. *fol.* 22. *Int.* 4. *fol.* 23] Has heard ſeveral of the common People dwelling in *Suſſex* County, call the three lower Counties, *the Territories of* Penſilvania.

Abraham Allman of *Maryland*, aged 50. [*Lib.* B. *fol.* 236. *Int.* 112. *fol.* 237] Does not know of any Bread, Beer or Flour being *ſeized*, by any Officer of *Maryland*, for being imported from either of the three lower Counties, all which he *names*. But ſays he himſelf has *once paid Duties*, to *William Rumſey* Naval Officer in *Cecil* County [in *Maryland*] for *Rum* imported by the Deponent into *Maryland* from *Apoquinimink* in *Newcaſtle County*——— And which Duties the ſaid *Rumſey* claimed as due and payable under ſome *Law* of the Province of *Maryland*, as the Deponent underſtood.

John Carnon of *Maryland* Merchant, aged 45. [*Lib.* B. *fol.* 274. *Int.* 112. *fol.* 275] He never heard of any Bread, Beer or Flour being *ſeized*—— *But has himſelf paid*, and has *known ſeveral other Perſons pay*, at *ſundry* times, ſince 1727, ſeveral *conſiderable* Sums for Duties of *Negroes and Rum* imported by him and them, *from Newcaſtle County*, into *Maryland*. And which Duties were paid to *Stephen Knight* and *William Rumſey*, as Naval Officers of *Cecil* County, and due and payable or claimed by them, by vertue of an *Act* of Aſſembly of *Maryland*, as the Deponent underſtood and believes.

John MacArthur of *Maryland*, aged 35. [*Lib.* B. *fol.* 292. *a. Int.* 112. *fol.* 292. *b.*] He knows of no Commodities imported from the Lower Counties into *Maryland*, that *have been ſeized* in that Province; But the Deponent formerly brought two Hogſheads and a Barrel of Rum, from *Barbadoes*, and landed the ſame at *Philadelphia*, and carried them into *Chriſtiana* Creek in *Newcaſtle County*, and, from *thence*, by Land into *Cecil* County. That the Deponent was there informed by *William Rumſey* (who he believes was Naval Officer there under *Maryland* Government) that if the Deponent did not pay the Duty of the ſaid Rum, *he would ſeize the ſame*. Whereupon the Deponent paid him the Sum he demanded; and underſtood and believes it was received from him under the Authority of the Government of *Maryland*.

George Lawſon of *Maryland*, aged 30. [*Lib.* B. *fol.* 302. *Int.* 112. *fol.* 303] Heard ſome *Rum* was ſeized about two Years ago, as carrying from *Newcaſtle* County to the Iron Works in *Cecil* County, but that the Affair was afterwards made up and agreed——— He has at *ſeveral times* paid Duty for Rum which he imported into *Maryland* from the County of *Newcaſtle*, unto *William Rumſey*, as Naval Officer for *Cecil County*, who claimed and received the ſame, as the Deponent underſtood and believes by vertue of and under ſome *Law* of the Province of *Maryland*.

John Scott aged 34 [*Lib.* B. *fol.* 304. *Int.* 112. *fol.* 305] In 1735 he carried *Rum* from *Apoquinimy* Landing in *Newcaſtle County*, by Land to the Head of *Bohemia* River in *Cecil* County in *Maryland*, and there paid a Duty of 3 *d. per* Gallon for it to *William Rumſey*, Naval Officer of *Cecil* Diſtrict under the Government of *Maryland*.

Andrew Porter of *Maryland*, aged 35. [*Lib.* B. *fol.* 306. *Int.* 112. *fol.* 306] Has heard that Duties have been ſeveral times paid for *Rum* imported into *Maryland*, from *Newcaſtle* County, to *William Rumſey* Naval Officer of *Cecil* County. And this Deponent *is now ſued* by the ſaid *Rumſey*, for the Duty of Rum, he imported from *Chriſtiana* Bridge *in the County of Newcaſtle* into *Maryland*; which Suit is now depending in the County Court for *Cecil* County. And the ſaid *Rumſey* claims and receives the ſaid Duties, by vertue of or under ſome *Maryland Law*, as the Deponent underſtands and believes.

William Rumſey Naval Officer in *Maryland*, aged 42, the Defendant's Witneſs, but croſs-examined [*Lib.* E. *fol.* 25. *Int.* 7. *Additional*, *fol.* 30] Has heard and believes that Bread, Beer, Flour, Malt, Wheat, and other *Engliſh* Grain and Tobacco have been imported and brought from the three lower Counties ſince the making the Act contained in Page 73 of the Law Book, but never heard that any of *them* were *ſeized* by any Officer of *Maryland*——— But has been informed that ſome Wheat brought from *Nottingham* under the Government of *Penſilvania*, was *ſeized* by *John Ward* of *Cecil* County—— That as *Naval Officer*, by vertue of *divers Acts* of Aſſembly of *Maryland*, he has received from *ſeveral* Perſons *ſundry* Duties for *Rum*, *Wine* and Negroes, imported into Maryland *from* Newcaſtle *County*——— That he brought an Action againſt one *John Carnan* in *Cecil* County, for tranſporting *Hides* from *Bohemia Landing* in *Cecil* County in *Maryland*, to *Apoquinomy* in *Newcaſtle* County, with *Intention* to tranſport them to *Philadelphia*, as he apprehended from ſome *Words* ſpoke by *Carnon*, and recovered Judgment againſt *Carnon* in *Cecil* County Court; but he brought a Writ of Error in the Provincial Court of *Maryland*, where the Judgment was reverſt. The *Cauſe* of which, as he has *generally* heard, was that *Apoquinomy* was *within* the Province of *Maryland*, but has been *informed, by one of the Juſtices* of the ſame Court, it was upon a *Fault* in the Declaration.

Benjamin Tasker of *Maryland*, aged 50, Defendant's Witneſs, but croſs-examined [*Lib.* E. *fol.* 49. *Int.* 7. *Additional*, *fol.* 61] Remembers that Sir *William Keith* late Governor of *Penſilvania* imported into *Maryland* in a Sloop from *Newcaſtle*, a Loading of *Bread*, Flour, and Beer, ſince the making the Act, Page 73 of the Law Book, and that *Horſes* have been ſince *commonly* imported into *Maryland* from the ſaid three lower Counties. And remembers that ſome *Horſes* were *ſeized*, during the Continuance of that Act, and that they were acquitted, but for what Reaſons can't ſet forth. Has *heard* that *Duties*, for *Rum* and *Wines* imported from the three lower Counties into *Maryland*, have been paid to the *Naval Officer* of *Cecil* County in *Maryland*, by vertue of the Act Page 157 in the Law Book——And has *heard* that ſome *Hides* were ſeized by *William Rumſey*, as being exported out of *Maryland* contrary to a *Maryland* Act, and were afterwards acquitted, but for what Reaſons knows not.

14th Branch, Containing ſome *General* Account of the great *Expence* Mr. *Penn* was at, and how much he has impaired his *Engliſh* and *Iriſh* Eſtates to ſettle this Country.

You'll pleaſe to remember, under this Head, that though Mr. *Penn*'s Petition for a Grant of Lands in *America* is worn out, and rendred *imperfect*, yet there remains enough of it, as it appears more authentically in the *Acts of Council* thereupon in 1680, to ſhew that he petitioned for it in Recompence for *great Debts* then due to him from the Crown.

James Logan, aged 66. [*Lib.* B. *fol.* 76. *Int.* 11. *fol.* 109. The latter Part of his Anſwer to that Interrogatory, *fol.* 118.] after ſpeaking of the Grants of *Penſilvania* and the Lower Counties made by King *Charles* and the Duke of *York* to Mr. *Penn*, he ſays, Mr. *Penn* in 1682 arrived himſelf in the Province and tranſported thither from *England*, *a vaſt Colony*, *in thirty two Ships*, at ſundry times before he himſelf left the Country in 1684. In which Expedition, during the ſaid *William Penn*'s Continuance in the Country, which did not amount to the full Term of two Years, the ſaid *William Penn*, as the Affirmant is well aſſured from the *intimate Acquaintance* he had afterwards with the ſaid *William Penn*'s *Affairs*, expended not leſs than a Sum betwixt Six and *Ten thouſand Pounds Sterling*.

Letitia Aubrey, aged 60. [*Lib.* A. *fol.* 134. *Int.* 40. *fol.* 145] That *William Penn*, the Plaintiffs Father, was in his Life-time poſſeſt and intitled to a *large and conſiderable* Real Eſtate in *England* and *Ireland*, but did not die poſſeſt of or intitled to *all* the ſame real Eſtates. For ſhe remembers his *ſelling* (about 1712 as ſhe believes) an Eſtate at *Worminghurſt* in *Suſſex*, of the yearly Value of 200 *l.* or upwards, and heard he, many Years before, ſold *another* Eſtate in *England*, and *alſo* an Eſtate in *Ireland* of *ſeveral Thouſand* Pounds Value; and has heard and believes he *likewiſe mortgaged* one or more of his Eſtates——The Reaſon of ſelling and mortgaging the ſame was, as ſhe believes, *to raiſe Money the better to enable him to ſettle and defend his Colony in* America.

John Page, aged 60. [*Lib.* A. *fol.* 174. *Int.* 40. *fol.* 191] Was *well* acquainted with the ſaid *William Penn* from 1705 till his Death, and had Opportunities of being *well* acquainted with his Circumſtances and *Affairs*, *which were in a bad Condition*. And this Deponent can depoſe the ſame, becauſe he was employed as his Attorney or Sollicitor from 1707 till his Death. Knows the ſaid *William Penn* was a Priſoner in the Fleet from *Hillary* 1707 to *October* 1708, at the Suit of *Ford* and others, for a Debt of above 12,000 *l.* owing from the ſaid *William Penn* upon a Mortgage of *Penſilvania*, and it was with a great deal of *Difficulty* that he raiſed Money for diſcharging the ſame. When the Deponent *firſt* knew him, he was intitled to a conſiderable real Eſtate both in *England* and *Ireland*, but did not die poſſeſt of and intitled to *all* the ſaid real Eſtates, for in 1707 he ſold Part of the ſaid real Eſtate in *England* of a conſiderable yearly Value, at *Worminghurſt* in *Suſſex*, to Mr. *Butler* ſince deceaſed, and afterwards ſold a conſiderable Part of his real Eſtate in *Ireland* to Mr. *Bernard* then Sollicitor General there, and this Deponent was concerned for the ſaid *William Penn* in the ſaid Sales, which the Deponent believes were made by him for raiſing Money to pay his Debts——The Deponent hath heard in the Family, and believes, that before the Deponent's Knowledge of the ſaid *William Penn*, he had ſold or mortgaged ſome conſiderable Eſtates in *England*, which were his firſt Wife's Inheritance, *for raiſing Money to enable him to carry on the Plantation of his ſaid Province of* Penſilvania.

Ferd. John Paris [*Lib.* A. *fol.* 195. *Int.* 40. *fol*, 330] Never had any great Acquaintance with the ſaid *William Penn*, or with his *Circumſtances* or Affairs, during his *Life* time; but from 1722, became acquainted with and tranſacted Buſineſs in a great many Affairs for *Springett Penn*, Grandſon and then *Heir at Law* to the ſaid *William Penn*, down to the Time of *Springett*'s Death in 1730; and immediately after was employed for *William Penn* junior, who upon his Brother *Springett*'s Death, became *Heir at Law* to the ſaid *William Penn*, and has been concerned in *a great Number* of Affairs for the ſaid *William Penn* junior, till 1739. that he went to reſide in *Ireland*. And by reaſon of being ſo employed for the *Heirs at Law*, has had *frequent Opportunities* and *Occaſions* to look into the Deeds and Titles of the Eſtates in *England* and *Ireland*, which appeared to have been enjoyed by Proprietary *Penn*, whereby the Deponent plainly perceived that after 1680, he made *conſiderable Mortgages and Sales* of his Eſtates in *England* and *Ireland*, but to what Value can't ſay, nor how or in what manner he applied the Money thereby raiſed, but was informed by *Springett Penn* in his Life-time that the Eſtates, ſold off by the ſaid *William Penn* amounted to a great yearly Value, and as near as Deponent remembers, he mentioned that *ſuch* Eſtates ſo ſold off in *Ireland only* were *then* of the Value of 1200 *l. per Annum* or thereabouts.

John Jefferys aged 60 [*Lib.* A. *fol.* 63. *Int.* 40. *fol.* 66] Was acquainted with the ſaid *William Penn*, and ſerved him *as Secretary* for two Years, from 1705 to 1707, whereby he had ſome *Opportunities* of being acquainted at that time, with his Circumſtances and Affairs, which, as the Affirmant believes, were pretty much perplext——Says the ſaid *William Penn* was then poſſeſt of, or intitled to, a conſiderable real Eſtate in *England* in *Kent* and *Suſſex*, and alſo in *Ireland*; But, while the Affirmant was his Secretary, or ſome time afterwards, the ſaid *William Penn* did, as the Affirmant underſtood and believes, ſell or diſpoſe of his Eſtate at *Wormingburſt* in *Suſſex*, which, as he remembers, was computed at about 300 *l.* a Year, and alſo part of his Eſtate in *Ireland*.

John Jefferys aged 60 [*Lib.* A. *fol.* 63. *Int.* 41. *fol.* 68] Whilſt he ſerved the ſaid *William Penn* as his Secretary, he was privy to ſeveral of his *Accounts*; and in or about 1706, the ſaid *William Penn* employed and directed the Affirmant to write out and ſtate *an Account*, from Particulars he gave the Affirmant for that Purpoſe, *of the Coſts and Charges* of his Affairs in *Penſilvania* and *the Profits* ariſing therefrom; whereby it appeared and was ſtated, that the *Province* of *Penſilvania* and *the three Lower Counties* of *Newcaſtle*, *Kent* and *Suſſex*, ſtood *indebted* to the ſaid *William Penn* in the Sum of 64,000 *l.* and upwards, *over and above the Profits he had received therefrom.*

15th **Branch**, That the now Plaintiffs have poſſeſt ever ſince 1726.

Samuel Preſton aged 75 [*Lib.* B. *Fol.* 312. *Int.* 16. *Fol.* 324.] Says he has lived in *Philadelphia* ever ſince 1726, and therefore *knows* that the *preſent Plaintiffs have been in Poſſeſſion* of the three lower Counties of *Newcaſtle*, *Kent* and *Suſſex ever ſince* that Time, as Proprietors and Landlords of the ſame.

16th **Branch**, Of the *Number* of Perſons *ſettled* in *each* of the three *Lower Counties*.

Thomas Noxon aged 40 [*Lib.* C. *Fol.* 488. *Int.* 124. *Fol.* 525. Further on *Fol.* 527.] Says he lives in the County of *Newcaſtle*, and is well acquainted therewith, and alſo with the Counties of *Newcaſtle*, *Kent* and *Suſſex*——That the County of *Newcaſtle* is *very thick ſettled*, the County of *Kent well ſettled*, but not ſo thick as *Newcaſtle*, and the County of *Suſſex not quite ſo* thick as *Kent*, there being *great* Quantities of *poor Land* in *Suſſex* County——Says there is *at leaſt*, 1400 Taxables in the County of *Newcaſtle*, which he computes and believes make about an *Eighth* Part of the *Inhabitants* in *that* County, [8 times 1400 make 11,200] And that there are *two* Churches and *two* Chapels, and alſo 8 Diſſenting Meeting Houſes, in the *County* of *Newcaſtle*; and a publick *Court-houſe*, and a *Priſon*, and a *Market-houſe*, in the *Town* of *Newcaſtle*——And *two* Market Houſes in *Wilmington* in the ſaid County of *Newcaſtle*.

Benjamin Chew aged 18 [*Lib.* C. *Fol.* 772. *Int.* 126. *Fol.* 773.] Knows Part of *Newcaſtle* County, and lives in *Kent* County, but does not know *Suſſex* County. That *Newcaſtle* County is *pretty thick* ſettled, but *Kent* County *not ſo* thick ſettled. That he acted laſt Year *as Deputy Clerk* of *Kent* County, and, from a *Calculation* he made upon a particular Occaſion, *from the Levy Liſts*, it appeared there were 1025 Taxables in the ſame County——That he does not *know* what Proportion the Number of *Taxables* bears to the Number of *all* the Inhabitants of that County, but has heard People, that he eſteemed of better Judgment than himſelf, ſay *they* judged they were about 8 or 10 to one [only 8 times 1025 make 8,200]——Does not know *what Number* of Churches or Meetings there are in *that* County, and knows of no other publick Buildings therein but a Court-houſe and a Priſon.

* *William Till* aged 43 [*Lib.* C. *Fol.* 740. *Int.* 126. *Fol.* 741.] Knows the Counties of *Newcaſtle*, *Kent* and *Suſſex*, and *formerly* lived many Years in *Suſſex* County, but now lives in *Philadelphia*——Says the ſaid Counties are *very well ſettled*. And believes there are about 600 taxable Perſons in the County of *Suſſex*, which he believes is about *one ſeventh* Part of all the Inhabitants in *Suſſex* County, [7 times 600 make 4200] And that there are in that County, *one* Church and *two* Chapels, all under the Care of one Miniſter of the Church of *England*, *two* Preſbyterian Meeting Houſes, and *two* Quakers Meeting Houſes, and the other publick Buildings are a *Court-houſe* and *Priſon* in that County.

17th **Branch**, Of the *very ſtrange* Way of granting Out Lands by the *Maryland* Officers; and the *Conſequences* which they inſiſt ariſe from the Perſons locating ſuch Grants.

Benjamin Taſker Defendant's Witneſs, but croſs examined, aged 50 [*Lib.* E. *Fol.* 49. 20th *Int. Fol.* 53.] That he is at preſent *Agent for the Defendant*, and *General Receiver of all his the Defendant's Rents, Rights and Dues in the Province of* Maryland.

The ſame [21ſt additional Interrogatory, *Fol.* 54.] That the *Method* for authoriſing the Defendant's Surveyors *for laying out Lands* is firſt, to obtain a *Certificate* to the Judge of the Land Office, from the Defendant's *Agent*, that his Dues are paid for the Quantity of Land deſired, and *upon that*, a *Warrant* is granted, in the Land Office, directed to a *Surveyor* to lay out the Land applied for, and after ſuch Surveyor has made his Return upon ſuch Warrant to the Land Office, and the ſame is examined and approved, *a Patent* from the Land Office is thereupon granted; believes that ſuch Surveyors, *ſometimes* do, and *ſometimes do not actually run out the Lines* of ſuch Surveys, but always do mark or certainly deſcribe, one, or more of the *Boundaries* of ſuch Lands ſo by them ſurveyed; and the ſaid Surveyors always make their Returns upon ſuch Warrants, *as if they had* actually run out the ſeveral Lines.

Griffith Beddoe the Defendant's Witneſs, croſs examined, aged 39 [*Lib.* E. *Fol.* 18. *Int.* 45. *Fol.* 19.] That there *are Grants* of Lands recorded in the *Land* Office of the Province of *Maryland*, which Lands are expreſſed by *thoſe* Grants to lie on the *Weſt* Side of *Delaware* Bay, and as he is *informed lie in* the *three lower Counties* on *Delaware*; and *other* Grants of Lands expreſſed to lie on *Chriſtiana Creek recorded in the ſaid Office*, which he is alſo *informed*, lie within *the ſame* Counties; the Names of *all* which Lands, and of the Perſons to whom the Grants were made, do appear in the Exhibits on the Part of the Defendant, numbered (4) purporting to be *Extracts* or *Copies* of *ſeveral* Grants or Patents of Land recorded in the ſaid *Land Record Books* of the Province of *Maryland*.

The ſame [*Int.* 47. *Fol.* 21.] That he knows not, nor has he ſeen, *in the Entries of the Land Office* of the Province of *Maryland*, that the Proprietors of *Maryland*, or their Agents, *denied to grant* Warrants or Patents for Lands, *becauſe* ſuch Lands *lay*, or were ſuppoſed to lie, *within the Province of* Penſilvania, *or the three lower Counties* on *Delaware*.

Note, They may according to *this* Method of Granting, grant out even *Philadelphia* itſelf, or all *Penſilvania*, if they ſet at home and invent imaginary Surveys in a Chimney Corner; and then, the Entries of theſe Grants are to be topt upon us, as *real* Grants made by the Defendant, when there is not a *ſingle* Inſtance of his having fairly *ſettled* any one Spot in the Lower Counties.

James Logan aged 66 [*Lib.* B. *Fol.* 76. *Int.* 18. *Fol.* 125.] Has converſed *divers Times* with *Philemon Lloyd*, who was Agent to the Lord *Baltimore*, Proprietor of *Maryland*, on the Subject of granting Warrants *at large* for Lands *to be located at the Pleaſure of the Purchaſer*; and on his blaming the Conduct of ſome of that Province for their pretending to take up Lands *far within* what had *always* been reputed the Province of *Penſilvania*, and, at one particular Time, upon this Witneſs's mentioning that *Matthias Vanbebber*, and one of *Henry Hollingſworth*'s Family about 1716, had preſumed to ſurvey Lands towards the River *Suſquehannah*, as *far Northwards as the City of* Philadelphia, which had *always* been accounted by the People of *Penſilvania not leſs than* 20 *Miles within their well grounded Claims*, which Practice divers others likewiſe afterwards attempted, the ſaid *Philemon Lloyd* alledged *in Excuſe* that thoſe Things were done *without the Knowledge*, *much leſs the Direction* of any concerned in the Land Office of *Maryland*; for that, their Warrants were *at large*, for *any* Lands *whatſoever*, that were vacant and unappropriated before, *within the Bounds of that Province*; and *it was entirely at Choice of the Purchaſers* of ſuch Warrants *to locate them where they thought fit*, *at their own Riſque*; but the *preſent Governor* of *Maryland*, *Samuel Ogle*, at a Meeting of the Commiſſioners (of which this Witneſs was one) appointed by the Proprietors both of *Maryland* and *Penſilvania*, for ſettling the Boundaries purſuant to the Articles of *May* 1732, which was held at *Newcaſtle* on 30th *October* in the ſaid Year and the three following Days, upon diſcourſing the aforementioned Subject of Warrants *at large*, *ſtrenuouſly inſiſted* that the Diviſion Lines, tho' agreed on, *not being yet run*, *ſuch Warrants* iſſuing from the Office of *Maryland*, *wherever they were located*, *make the Land*, on which they were laid, a *Part of the Province of* Maryland.

Samuel Preſton aged 75 [*Lib.* B. *Fol.* 312. *Int.* 18. *Fol.* 324.] That at a Meeting of the ſaid Commiſſioners in *February* 1732, upon ſome Converſation concerning Encroachments made by the Inhabitants of *Maryland* and *Penſilvania*, *Samuel Ogle*, then Lieutenant Governor of *Maryland*, ſaid, That the Land Office in that Province *was open*, and any Perſon applying to the ſaid Office, and complying with the Conditions obtained a Warrant for taking up Lands in the Province of *Maryland*, *which he might locate where he pleaſed*, the Boundaries between the two Provinces *not being known*; whereupon *Andrew Hamilton*, one of the Plaintiffs Commiſſioners, aſked the ſaid *Ogle* if the Perſon obtaining ſuch Warrant ſhould execute it, by an Officer of *Maryland*, *three or four Miles above*, or to the *Northward* of *Philadelphia*, Whether the Perſon obtaining the ſame Warrant would thereby, become a *Marylander?* The ſaid *Samuel Ogle* anſwered, that ſuch Perſon *muſt be looked upon as his Lordſhip's Tenant*, or Words to that Effect.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 18. *Fol.* 638.] That at a Meeting of the Commiſſioners appointed to run the Lines on the firſt or ſecond of *February* 1732, on ſome Converſation between the Commiſſioners for *Maryland* and *Penſilvania* touching ſome Settlements made on the *Weſt* Side of *Suſquehannah* River under *Maryland* Warrants, Mr. *Ogle*, one of the *Maryland* Commiſſioners [and Governor] then ſaid that Warrants for ſurveying Lands in *Maryland* were granted *at large*, and that the Perſons who took out, or were poſſeſt of ſuch Warrants, had it *in their Option*, and might *locate* ſuch Warrants *where they pleaſed:* The *Penſilvania* Commiſſioners anſwered that, according to *ſuch* Poſition, ſuch Warrants might be located in the Neighbourhood of *Philadelphia*, or to the *Northward* of *it:* The ſaid *Ogle* replied, that in caſe ſuch Warrants ſhould be *ſo* located, the Perſons locating the ſame *ought to be eſteemed Lord* Baltimore's *Tenants*, until the Diviſion Lines between the Provinces were actually run and ſettled.

A moſt miſchievous, and unheard of, Doctrine in *America*, purely to beget eternal Conteſts, *firſt* invented and cloſely obſerved by this Governor *Ogle*, who has *really* been the Incendiary, that has defeated the ſalutary Agreement made between the Parties, as we ſhall ſee, *even from his own Evidence*, by and by.

18th **Branch**, Of the notorious Scituation of *Penſilvania* and the lower Counties, both upon *one and the ſame Weſt* Side of the River and Bay of *Delaware*, and of my Lord's going perſonally, *by Land*, from the one to the other of them in 1733, which, nevertheleſs, he has been pleaſed to ſwear, in his Anſwer, are ſeparated by, and lie on *different* Sides of, that *great* Bay and River.

James Logan aged 66 [*Lib.* B. *Fol.* 76. *Int.* 7. *Fol.* 91.] Has been acquainted with *Penſilvania*, Three Lower Counties, and the Province of *New Jerſey*, above 30 Years; and it is *notorious* that *Penſilvania* and the ſaid Counties lie on the *Weſt* Side of *Delaware* Bay and River, and the Province of *New Jerſey* on the *Eaſt* Side thereof.

Samuel Preſton aged 75 [*Lib.* B. *Fol.* 312. *Int.* 121. *Fol.* 450.] Has frequently travelled, by the Common Road, from *Newcaſtle* Town to the City of *Philadelphia*, which is eſteemed about 36 Miles, and there is *not any* Bay or River that divides the Province of *Penſilvania* from the County of *Newcaſtle*; and verily believes no conſiderate Man, who travels that Road, *can ſo far miſtake*, or be ignorant of the Scituation of the ſaid County of *Newcaſtle*, as to believe it to be on a different Side of *Delaware* Bay or River from the Province of *Penſilvania*, becauſe they are *apparently* on one *and* the ſame Side thereof.

Edward Chambres of *Maryland* aged 51, [*Lib.* C. *Fol.* 456. *Int.* 121. *Fol.* 467.] *In totidem verbis.*

William Beckett aged 43 [*Lib.* B. *Fol.* 277. *Int.* 121. *Fol.* 277.] The Defendant's own Witneſs, croſs examined, ſays the ſame thing exactly, but in *ſtronger* Terms; for he thinks no Man in his Senſes, that rides that Journey by the Common Road, *can be ignorant* of the Scituation, *or believe* them to be of *different* Sides.

Gideon Griffith aged 45 [*Lib.* B. *Fol.* 279. *Int.* 121. *Fol.* 279.] In the ſame Words as Mr. *Beckett*.

George Roſs, Clerk, aged 59 [*Lib.* B. *Fol.* 308. *Int.* 121. *Fol.* 308.] Another of the Defendant's own Witneſſes, croſs examined, ſays the ſame thing as *Beckett* and *Griffith*, *in totidem verbis*.

Abraham Taylor aged 37 [*Lib.* C. *Fol.* 477. *Int.* 121. *Fol.* 467.] *In totidem verbis.*

Edward Chambres aged 51 [*Lib.* C. *Fol.* 456. *Int.* 7. *Fol.* 457.] Has been acquainted with *Penſilvania*, and the lower Counties, above 20 Years, and has ſeen the Province of *New Jerſey*; and ſays the Province of *Penſilvania* is *not* contiguous to the Province of *New Jerſey*, being *ſeparated* therefrom by the *River and Bay* of *Delaware* which run *betwixt* them; and that *Penſilvania* lies on the *Weſt*, and *New Jerſey* on the *Eaſt* Side of the ſaid Bay and River——And *Penſilvania* and the lower Counties lie on *one and the ſame Side*, *viz.* the *Weſt* Side of the ſaid Bay and River.

William Rumſey of *Maryland* aged 42, the Defendant's Witneſs, croſs examined [*Lib.* E. *Fol.* 25. *Int.* 1. additional *Fol.* 25.] Says the River *Delaware* lies *between Penſilvania* and *New Jerſey*. And that the lower Counties *and* the Province of *Penſilvania* lie on the *Weſt* Side of the Bay or River of *Delaware*.

Benjamin Taſker of *Maryland* aged 50, Defendant's Witneſs, croſs examined, [*Lib.* E. *Fol.* 49. *Int.* 1. additional *Fol.* 49.] Says with great Difficulty, at laſt, that the Bay and River of *Delaware* *ſeparate Penſilvania*, from that Part of *New Jerſey* which he is acquainted with; and that the Province of *Penſilvania*, *and* the three lower Counties, as he *underſtands*, lie on the *Weſt* Side of the Bay and River *Delaware*.

George Roſs, Clerk, [*Lib.* B. *Fol.* 308. *Int.* 120. *Fol.* 310.] The Defendant's own Witneſs, croſs examined, ſwears that Lord *Baltimore* came to the Town of *Newcaſtle* by Land, in Day-time, in 1733, when the Deponent ſaw him, That he then walked about that Town, ſtayed there one Night and Part of the next Day. That the Defendant then rode from thence up to *Cheſter* Town *in the Province of* Penſilvania, where this Deponent waited upon him, and from thence went as the Deponent was informed and believes to the City of *Philadelphia*.

Gideon Griffith [*Lib.* B. *Fol.* 279. *Int.* 120. *Fol.* 290.] Confirms the ſame.

Abraham Taylor [*Lib.* C. *Fol.* 477. *Int.* 120. *Fol.* 487.] Has heard and believes that Lord *Baltimore* was at the Town of *Newcaſtle* on *Delaware* in the beginning of the Year 1733, and that he came from thence *by Land* into the City of *Philadelphia*, where the Deponent ſaw him, and he continued ſome Days.

19th **Branch**, of the *Treatys* in Order to, and the *drawing*, *peruſing* and *ſettling* the Draught of, the *Agreement*, the *Map*, and Mr. *Senex*'s written *Opinion*, * * * * * and the Execution, by the Partys, of the *Agreement* in Queſtion, and of the *Commiſſions* for running the Lines purſuant thereto.

Ferd. John Paris [*Lib.* A. *Fol.* 195. *Int.* 16. *Fol.* 199.] ſays, that he became *well* acquainted with, and *known to*, the Defendant, at the *time*, and in the *manner* following; In 1725, the Earl of *Sutherland* having made Application to the Crown, relating to the three Lower Counties, there were ſeveral Attendances or Hearings thereon, before his Majeſty's then *Attorney General*; at which Hearings ſuch Application of the Earl of *Sutherland* was *oppoſed*, not only by the Mother of the Plaintiffs, and alſo by *Springett Penn* as Heir at Law, then, of Proprietary *William Penn*, but alſo by the *now Defendant*; on which occaſion the Deponent acted and appeared, not as Sollicitor for the Plaintiffs, or their Mother, but

but as Sollicitor for *another Branch* of that Family, namely for the ſaid *Springett Penn*; and in or about 1729 and 1730, this Deponent became *further known* to the Defendant, by having *often attended him* on ſeveral Acts of Aſſembly paſt *in his own Province* of *Maryland*, and on *Complaints from thence*, of *the Clergy there*, or other Perſons relating to *Matters ariſing* in *his ſaid Province of* Maryland; and that in 1730, this Deponent was appointed by the Aſſembly of *Penſilvania* to be their *Agent* here, and, as ſuch, *publickly acted*, in *London* and *Weſtminſter*, *in the publick Affairs* of *Penſilvania*. And ſaith that about the beginning of 1731, the Deponent accidentally met the Defendant, and falling into Diſcourſe, the Defendant took occaſion to mention to the Deponent, that *both himſelf and the Proprietors of* Penſilvania *greatly ſuffered*, from ſome Diſputes which had for a *long time* ſubſiſted between them, and their Families, and that *he wiſhed they were accommodated*, or to the like Effect, as near as the Deponent can recollect; whereto the Deponent anſwered, he had heard a good deal of theſe old Diſputes, and that it *did ſeem to be high time* they ſhould be compoſed, or to ſuch Effect; and acquainted his Lordſhip that if he would give leave, he the Deponent would acquaint Mr. *Penns* (who the Deponent believed would be *very willing* to accommodate that Matter) with what his Lordſhip had ſaid, or to ſuch Effect; and his Lordſhip, to the Deponent's Apprehenſion, then expreſſed his *Deſire*, that the Deponent would mention to them, what had ſo paſſed between his Lordſhip and this Deponent. Saith that he the Deponent was, about that time, and for a *conſiderable* time before, *had been* endeavouring to compoſe a *great* Difference between *William Penn* the Younger, (who was then upon his elder Brother *Springett Penn*'s Death, becôme *Heir at Law* of Proprietary *Willivm Penn*) and the now Plaintiffs *John*, *Thomas*, and *Richard Penn*, about Proprietary *William Penn*'s *Will*, and about his *American Eſtate*; and the Deponent apprehending then, that an Agreement, between the Lord *Baltimore* and Mr. *Penns* might facilitate the Concluſion of an Agreement between the *different Branches* of Proprietary *William Penn*'s Family, and might procure *better Terms* from the Plaintiffs to the ſaid *William Penn* junior, (who was then this Deponent's Client) for confirming Proprietary *William Penn*'s Will and Diſpoſition of his *American* Eſtate, the Deponent was *very glad therefore* of an Opportunity to promote that other Agreement with Lord *Baltimore*; and thereupon the Deponent did, very ſoon after ſuch Diſcourſe had paſt between the Defendant and the Deponent, take an Opportunity to acquaint the Plaintiffs *John* and *Thomas Penn*, and alſo the Deponent's *then Client* the ſaid *William Penn* junior thereof; who declared on their Parts, that they were ſatisfied how *much* it was *the common Intereſt of all Parties* to ſettle thoſe old Diſputes with the Lord *Baltimore*; In a *ſhort* time after which, there was a *Meeting* had, between the Defendant, and ſome, if not all, of the now Plaintiffs, at the *Ship Tavern* near *Temple-Bar*, on or about 3d *June* 1731, at which Meeting the Deponent was preſent; and af er the Occaſion of that Meeting had been opened, and ſome Diſcourſe had between them, one of the now Plaintiffs (and to the Deponent's beſt Remembrance it was the Plaintiff *Thomas Penn*) produced a *ſmall written Map* of part of *Penſilvania* and *Maryland*, and of ſome adjacent Parts; and the Defendant, on his part, produced *another written Map* of the like Places, upon comparing of which two Maps together, they ſeemed to have in the deſcriptive Parts of the Places no *material* Difference that the Deponent could perceive, *which Map* produced by the Plaintiffs as aforeſaid, is the Map markt *Par.* (N° 1.) now produced, and *each* of the ſaid Maps had, *then*, a *Circle* or part of a Circle, drawn round the Town of *Newcaſtle*. And after a good deal of Conference and Diſcourſe, of the Lord *Baltimore*'s Claim to the three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, and alſo, *how high*, *or how far North*, his Head-Line of his Province of *Maryland* ſhould extend, the Lord *Baltimore* with a *Pencil* and *Rule*, drew, upon *his* ſaid Map, a *ſtrait Line* from a part at the *Edge* of the Land, which was *there* called Cape *Hinlopen*, to the *Weſtward* a-croſs a good Part of the Peninſula, into the Middle, or thereabouts, of the Peninſula, and then, drew another ſtrait Line, *Northwards*, up to the Top of the Peninſula, and *above every part* of the Peninſula, and *into the main Land* or Continent, (as there deſcribed) and until it went, by and above, ſome part of the Circle: and then he drew *another ſtrait Line*, *Weſtwards*, a-croſs the River at the Head of *Cheſopeak* Bay, (at the upper Point of the ſaid *ſecond* Line) as and for what he then *inſiſted* ſhould be *his Boundary*; and it was then declared by the ſaid Lord *Baltimore*, that thoſe two *firſt mentioned* Lines would leave the *three lower Counties* to Mr. *Penns*; and that the *third* Line abovementioned ſhould be the *Head* Line, or *North* Boundary of *Maryland*, and the *Foot* Line or *South* Boundary of *Penſilvania*, or to ſome ſuch Effect: Saith that one of the now Plaintiffs (and to the Deponent's beſt Remembrance, it was the Plaintiff *John Penn*) then, with a *Pen*, drew Lines, upon *his* Map, how *he* deſired the ſaid Lines ſhould run; which Lines ſo drawn roughly by the Plaintiff, were *much like* thoſe drawn by the Defendant, *ſave* that the Plaintiff made the *general* Foot-Line, or *South* Boundary of *Penſilvania*, (and conſequently the general *Head* Line, or *North* Boundary of *Maryland*) to be *lower*, or *more Southerly*, than the Lord *Baltimore* had done; whereupon *a very long* Debate and Argument aroſe, between the Defendant and the Plaintiffs, at what Diſtance *South* from the City of *Philadelphia*, the *Foot* Line of *Penſilvania*, or the *Head* Line of *Maryland* ſhould run? And the Lord *Baltimore* at firſt, (and *always* ſo far as the Deponent knows) *perſiſted* that ſuch laſt mentioned Line ſhould be *only* at 15 Miles Diſtance below the Parallel, or *South* of *Philadelphia*. And the Plaintiffs, or ſuch of them as were at that Meeting, then inſiſted that that would be *too much*, or *too far*, *above the Peninſula*, and that the *North* Bounds of *Maryland* ſhould be at 20 Miles Diſtance, below the Parallel, or *South* of *Philadelphia*; And the Deponent well remembers that the Terms and Propoſals for an Agreement did, then, proceed from the Lord *Baltimore* himſelf, but no *Agreement*, was, at *that* time, concluded between the Parties; but *both* ſides took time to conſider of it.——And ſaith that after ſuch *firſt* Meeting, the Deponent was preſent at a ſecond Meeting, between the Defendant, and ſome, if not all, of the Plaintiffs, upon or about the 11th *June* 1731, when a *very long* Conference was had, between them, whether the Head or North Line of *Maryland* ſhould be ſo high, as to be within 15 Miles of *Philadelphia*, or ſhould be at *ſome greater* Diſtance South of *Philadelphia*? And the Lord *Baltimore* then inſiſted that it ſhould be within 15 Miles of *Philadelphia*, otherwiſe, he would not agree, but would take ſome adverſary Meaſures, or to that Effect; and ſuch of the Plaintiffs as were then *there* not at all agreeing to the Lord *Baltimore*'s ſaid Propoſal and Demand, at *that* time, the Treaty broke off.——And ſaith that, ſome time afterwards, the Treaty was *again reſumed* in the following manner, for that the Deponent on or about 6th *July* 1731, did meet the Plaintiffs *John Penn* and *Thomas Penn*, and the ſaid *William Penn* junior, to conſider of a *Letter* which the ſaid *William Penn* junior then produced and ſhewed this Deponent, and ſaid he had received from Lord *Baltimore*, which Letter intimated that his Lordſhip had preferred *ſome Petition* to his Majeſty; whereupon, on or about 9th *July* 1731, the Deponent did meet the Plaintiffs *John Penn*, and *Thomas Penn*, and the ſaid *William Penn* junior, or ſome of them, *again*, together with one Mr. *Simon Clements* a Relation of theirs, *ſince deceaſed*, in order to prepare an Anſwer, on the Part of Mr. *Penns* to that Letter, and to be ſent to Lord *Baltimore*; and he then ſaw ſuch Letter ſaid to be received by the ſaid *William Penn* junior, from the ſaid Lord *Baltimore*, and hath ſince made *very diligent Enquiry* after the ſame, but that the ſaid *William Penn* junior, *having ſince releaſed* to the Plaintiffs, and having lived for ſeveral Years laſt paſt, as the Deponent aſſuredly believes, in *Ireland*, the Deponent cannot *obtain* the ſame, or any Account thereof, but is very apt to believe the ſame is loſt or miſlaid, and not now in being; and verily *believes* that a *written Anſwer* to ſuch Letter was ſent to, and received by the Defendant the Lord *Baltimore*.——For that, on or about 20th of the ſame *July* 1731, the Deponent was preſent at a *third* Meeting, at the *Bedford-Head Tavern*, near *Covent-Garden*, with the Defendant the Lord *Baltimore*, and (according to the Deponent's beſt remembrance) *every one* of the now Plaintiffs, and alſo with the ſaid *William Penn* junior, then Heir at Law of Proprietary *William Penn*, at which time *very great* Debates and Arguments were uſed, between them, at what Diſtance, South of *Philadelphia*, the Head or North Line of *Maryland*, or the Foot or South Line of *Penſilvania*, ſhould run? Whether *ſo near* as within 15 Miles of the Parallel of *Philadelphia*, (as the Lord *Baltimore* had before inſiſted) or, at ſome, and what *greater Diſtance*; and the now Plaintiff *John Penn* did then inſiſt it ſhould run *lower*, namely at 18 Miles, South of *Philadelphia*, afterwards at 17 Miles, and then contended, to the Deponent's now beſt Remembrance for *half a Mile*, but the Lord *Baltimore* appeared to be fixed and determined and declared he would abſolutely have it run within 15 Miles of *Philadelphia*, *or elſe* would not agree, or to that Effect; inſomuch that the Deponent apprehended, the Treaty *would* then *again* have broken off; whereupon the Deponent went aſide, with the Plaintiff *John Penn*, out of the Room where the Company was met, and repreſented to him that, as his own Family Difference with his Father's Heir at Law, was then, in a manner agreed upon, and as there had been *continual* Diſputes and Conteſts between his own Family, and Lord *Baltimore*'s Family, for about 50 Years then paſt, about Boundaries, and about the ſaid three Lower Counties, the Deponent really thought, it was for the Plaintiffs Benefit, to heal *all* thoſe old Diſputes together, and to accept Lord *Baltimore*'s Propoſal, and put all their Affairs at Peace, or to ſome ſuch Effect; *and* the Deponent uſed ſuch Arguments as ſeemed proper on that Occaſion.——Whereupon the Plaintiff *John Penn* and the Deponent returned into the Room again, where the Company and the ſaid Lord *Baltimore* was, and, after ſome farther Endeavours then uſed, on the Part of Mr. *Penns*, to induce Lord *Baltimore* to agree to run his Head Line, at more than 15 Miles *South* of *Philadelphia*, (but which his Lordſhip abſolutely refuſed) it was at *length*, *finally*, but *verbally*, agreed between them, at *that* Meeting, that the ſaid *Head* Line of *Maryland*, ſhould be an *Eaſt* and *Weſt* Line, to run 15 Miles below, or *South* of the Parallel of *Philadelphia*, and the Parties congratulated each other thereon; and *another* Meeting was agreed to be had on or *about* the 22d of the ſame *July*, to conſider *how* to carry ſuch Agreement into Execution.——And ſaith that, accordingly, on or about 22d of the ſame *July* 1731, the Deponent was preſent, at a *fourth* Meeting, between the Defendant, the Lord *Baltimore*, and ſome if not all of the Plaintiffs, (but believes all the Plaintiffs were preſent thereat) at which time the Lord *Baltimore* produced a *Paper*, which he ſaid he had written or drawn up, to expreſs the *Parties Agreement*; and which he alſo ſaid, muſt be drawn *at length*, or to that or the like Effect, and ſuch Paper was then read over *twice* or *thrice* (as the Deponent remembers.) And the Deponent on the behalf of Mr. *Penns deſired to have the ſame*, or ſome *Copy* thereof, but the Lord *Baltimore* declared, that he had no Copy thereof, but gave it to Mr. *John Sharpe* his Sollicitor, who was then preſent, and directed him to give this Deponent a Copy of the ſame; Accordingly a *few Days* afterwards, the Deponent received, from the ſaid Mr. *Sharpe*, the *Paper now produced*, markt (*Par.* N° 2.) as and for a *true Copy* thereof; and the ſaid Mr. *Sharpe* and the Deponent then *examined* the ſame therewith, and Mr. *Sharpe* kept the *Original*, and *delivered* to this Deponent the ſaid now *produced* Copy.——And ſaith that he afterwards went to the ſaid Mr. *Sharpe*'s Houſe, and attended on him *ſeveral times*, in Order to *draw up* in Form, and *ſettle* the Agreement, to be afterwards executed between the Parties, and *particularly* upon or about 16th *Auguſt* 1731, the Deponent *delivered over* to the ſaid Mr. *Sharpe*, the Defendant's then, and preſent Sollicitor, the *Original Paper Draft* of Articles of Agreement (but not including the Additional Clauſes which are now thereto) now produced, markt (*Par.* N° 3.) of which *time*, as well as of ſeveral *other times* ſpoken to in his Depoſition to this Interrogatory, the Deponent is the *better able* to depoſe, after this length of Time, *from* ſome *Notes* which he kept thereof, *in order to draw out his Bill* for his Time and Attendances.——And the Deponent is the *rather certain* nearly as to the *Time* now *laſt* mentioned, from an *original Letter* to the Deponent (of the ſaid Mr. *Sharpe*'s Hand-writing, which Deponent is *well* acquainted with, for that the Deponent hath *often ſeen him write*) now produced and markt *Par.* N° 4. and dated 15th *Auguſt* 1731, wherein, he writ to this Deponent that he had *peruſed the Draft* of the Agreement between Lord *Baltimore* and Meſſrs *Penns*, and thought the ſame *perfectly right*, and that he *had ſent it* that *Night* to Lord *Baltimore* for *his* peruſal, or to ſuch Effect, as by the ſaid produced Letter to which the Deponent refers.——Saith, that he, on *ſeveral Days*, after the ſaid 19th of *Auguſt*, went, and ſent to, the ſaid Mr. *Sharpe*'s Houſe, in order to forward the *ſettling* the ſaid Draft, until on or about the 23d *of September* 1731, when the ſaid Mr. *Sharpe* informed this Deponent, that Councellor *Wynne* then had the ſaid Draft laid before him, which ſaid Councellor *Wynne* (now Mr. Serjeant *Wynne*) the Deponent had *before* ſeen, acting *for the Defendant*, relating to *his* Affairs in *Maryland*, and according to the Deponent's beſt Remembrance, the ſaid Mr. *Wynne* had been preſent, on the Part of the Lord *Baltimore*, *at one at leaſt* of the *Meetings* before ſpoken of; and after *ſome farther* Attendances on the ſaid Mr. *Sharpe* he acquainted this Deponent on or about the 28th of *October* 1731, that he had *got back* the ſaid Draft.——But the Deponent did not obtain the ſame, ſo as to ſee what *Alterations* were made, or propoſed to be made therein, until on or about 8th *November* 1731. And, upon the Deponent's obtaining the ſaid Draft *back again*, this Deponent found the ſame *endorſed* on the Outſide, with a Direction or Deſire to Mr. *Wynne* to peruſe and ſettle that Draft, *on behalf of my Lord* Baltimore, and with a Note or Memorandum, that my Lord deſired thoſe Articles might be as *ſhort and general as poſſible*, in regard the ſame muſt be made publick in both the Provinces, and ſigned *Sharpe* Sollicitor *pro* Lord *Baltimore*, in ſuch manner as now appears thereon. And which ſaid *Indorſement*, *Direction*, *Note* and *Signing*, this Deponent aſſuredly believes was and is of the ſaid Mr. *Sharpe*'s own proper *Hand-writing* (which this Deponent was and is *well* acquainted with as aforeſaid.)——And the Deponent ſaith that the ſaid *Draft* when it was ſo returned back, had in the *Margin* of the 9th Sheet or Folio thereof, theſe Words written, *viz.* (*The Miles throughout to be expreſſed* Engliſh *Statute Miles*) which ſaid Words ſo written there, the Deponent aſſuredly believes were, and are, of the ſaid Mr. *Sharpe*'s *Hand-writing*; and alſo ſeveral *other* Notes and Words had been then added and written (by the ſaid Mr. *Sharpe*, as the Deponent believes) upon *ſeveral other* of the *Sheets*; and the ſaid Draft had *likewiſe* the ſeveral *other* Alterations and Additions then made thereto *by writing*, ſeeming to be writ with a *Pencil*, and which the Deponent did then and ſtill doth apprehend and believe had been made by the ſaid Councellor *Wynne*.——Of which Alterations (more *eſpecially* that for expreſſing the Miles to be *Engliſh Statute* Miles) this Deponent acquainted the Plaintiffs, or ſome of them, and had *divers Meetings* with them *thereon*, and they appeared to be *greatly diſſatisfied* therewith, declaring that the Miles mentioned in the ſaid Draft, ought to have been *Geographical* Miles or Minutes, and *not Engliſh* Statute Miles; and that an Alteration, ſo as to make them *Engliſh Statute* Miles, was entirely to *their Prejudice*, and *in Lord Baltimore*'s Favour, and would extend his Bounds, in thoſe Places where *Miles* had been mentioned, near *about a ſixth Part more than he himſelf had ever demanded*, or to ſome ſuch Effect, and they ſhewed *apparent Unwillingneſs* to agree thereto;——And ſaith that he afterwards attended the ſaid Mr. *Sharpe thereon* and *objected* to that propoſed Alteration, in particular, and on or about 5 *January* 1731, a *Meeting* was had, between the Defendant, and two, if not all three, of the Plaintiffs, at the Lord *Baltimore*'s Houſe in *Groſvenor* Square, when after *much* Debate, the now Plaintiffs, or ſo many of them as were there at that time, were *prevailed* on to conſent to ſuch Expreſſion of *Engliſh Statute* Miles; and the ſaid *Draft* of Agreement, or great part thereof, was then *read over*, and *many* Debates thereon had, and the ſaid Lord *Baltimore* did *then* propoſe that *ſome Mathematician* ſhould be *conſulted*, upon the *Draft* of the ſaid Articles; and it having been mentioned, in the ſaid *Draft* that ſome *Map or Plan* of the Place in Queſtion, was, or was to be, in ſome manner or other, annexed to, or referred to, in the *Articles of Agreement*, Debates aroſe, between ſuch of the Plaintiffs, as were then there (which the Deponent believes were all three of the Plaintiffs), and the Defendant the Lord *Baltimore*, *which* of their two Maps or Plans ſhould be engraved, ſo as to be referred to in the Articles of Agreement? and alſo *who* ſhould be the Perſon that ſhould engrave the ſame? And the Deponent well remembers, that ſome one of the Plaintiffs propoſed that *their* Map or Plan ſhould be *engraved* for that Purpoſe, and that a *Perſon* (whoſe Name this Deponent doth not now recollect, and *who lived* ſomewhere *in the Strand*) ſhould engrave the ſame, *but* the Lord *Baltimore* inſiſted that *his own* Map or Plan ſhould be engraved, for ſuch purpoſe, and *he* named and deſired that *another different* Perſon, one Mr. *Senex* of *Fleetſtreet* (who is now lately *deceaſed*, as the Deponent believes) ſhould engrave *his* the ſaid Lord *Baltimore*'s Map or Plan, and *alſo*, ſhould *examine* the ſaid *Draft* of the Articles; and accordingly, it was, in the Deponent's preſence and hearing, *agreed* between the Lord *Baltimore* and ſuch of the Plaintiffs as were then there, that the Lord *Baltimore*'s Map or Plan ſhould be

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the *Map* or *Plan*, that *ſhould be engraved*, and that the ſaid Mr. *Senex* (who had been named by the ſaid Lord *Baltimore*) ſhould engrave the ſame; and that Mr. *Senex* ſhould *alſo conſider*, and *give* his *Opinion* upon, the ſaid *Draught* of the ſaid Articles of Agreement or to that Effect;—and, accordingly, the Deponent was preſent, with the ſaid Mr. *Sharpe* the Lord *Baltimore*'s Sollicitor, when the ſaid *Draught* of the ſaid Articles of Agreement, was delivered to the ſaid Mr. *Senex*. And the ſaid Mr. *Sharpe* delivered to the ſaid Mr. *Senex* the Map or Plan which this Deponent did *then*, and *doth ſtill* believe, was the very Plan which had been markt by the Lord *Baltimore* as aforeſaid, and the ſaid Mr. *Sharpe* and this Deponent concurred in deſiring the ſaid Mr. *Senex* to *conſider* the ſaid Articles, atd to give his *Opinion* for the Satisfaction of their reſpective Clients, upon the ſame, and upon the Propriety of the Terms and Expreſſions which were made uſe of therein, and alſo that the ſaid Mr. *Senex* would *engrave* the *Map* or Plan ſo delivered to him by the ſaid Mr. *Sharpe*——And the Deponent ſaith that, after ſome few Days time, the ſaid Mr. *Senex* did *verbally* declare his *Approbation* of the Terms made uſe of in the Draft of the ſaid Agreement, but the Deponent and the ſaid Mr. *Sharpe*, or one of them, ſeemed rather deſirous that he ſhould give his *Opinion* thereon in *Writing*, or to ſome ſuch effect, and *which* he afterwards *did* to the ſaid Mr. *Sharpe*, and to this Deponent; and that *Copy of his Opinion* which he delivered to this Deponent, this Deponent hath *kept in his own Cuſtody ever ſince*, (until lately, that it was left with the Clerk, who examines this Deponent, as an Exhibit in the Cauſe) And it is the Paper markt *Par.* (N° 5) now produced. And this Deponent did and doth apprehend, ſuch Paper to have been of the ſaid Mr. *Senex*'s Hand-writing, but doth not know the ſame to be ſo——And that the ſaid Mr. *Senex* declared he would go about engraving a Plate of the Map or Plan which had been ſo left with him by the ſaid Mr. *Sharpe*; and after ſome time, the ſaid Mr. *Senex* produced a *Copper-plate*, and alſo a Proof-ſheet, as printed off from the ſame, the Lines of which the Deponent did *examine* as carefully as his Capacity would allow him, with the ſaid written Map or Plan then in the ſaid Mr. *Senex* his Cuſtody, and found the ſame to *agree together*; And after ſuch time the Deponent *knows* that Mr. *Sharpe* had in his own Cuſtody again the ſaid *written Map* or Plan, which had been ſo left with the ſaid Mr. *Senex*, for engraving ſuch Plan; And Mr. *Senex* did, at the Deponent's Requeſt, ſome conſiderable time *afterwards*, ſtamp off ſome of the *Prints* from the Copper-plate, on the Margin of the Parchment, whereon the Articles of the Agreement were to be (and afterwards were) engroſt for Execution——Saith that, at the time the ſaid Draft of the Articles was *firſt* delivered over, although the now Plaintiffs and their Nephew *William Penn* junior, had *very near* agreed upon Terms to purchaſe a Releaſe from him to them, yet, ſuch Releaſe from him, was not *actually obtained* from him, *in Form* (to the Knowledge or Belief of this Deponent) And therefore in *Auguſt* 1731, when the ſaid Draft of the before mentioned Articles was ſo delivered over to the ſaid Mr. *Sharpe*, the ſaid *William Penn* junior *was named* therein as and for a Party to the ſaid Articles, but after that time, and while the forementioned Matters were paſſing, the ſaid *William Penn* junior did (to this Deponent's *certain* Knowledge) *releaſe* to his Uncles, the now Plaintiffs, or to ſome of them *generally* the ſaid Province of *Penſilvania* and Counties of *Newcaſtle*, *Kent* and *Suſſex*, on *which* Account as that Matter had *intervened* while the ſaid Draft of the Articles of Agreement was under Conſideration as aforeſaid, ſome of the now Plaintiffs, or the Deponent on their behalf deſired, that *then* the ſaid *William Penn*'s Name might be *ſtruck out*, and he not longer continued *as a Party* to ſuch Articles of Agreement, which was agreed to on the part of the Lord *Baltimore*, and his Council, but the Lord *Baltimore*, or his Council, Mr. *Wynne*, afterwards inſiſted that the ſaid *William Penn* junior, and alſo ſome *other* Perſons *Deviſees* of certain Quantities of 10,000 Acres of Land, under Proprietary *William Penn*'s Will, ſhould by an *Inſtrument*, to be *endorſt* on the Back of the ſaid *Articles* of Agreement, declare their *Conſent* to ſuch Agreement between Lord *Baltimore* and the now Plaintiffs, and accordingly a *Draft* of a Deed-Poll (for an *Endorſement*) to ſome *ſuch* effect, was prepared by the Deponent, and was ſettled by the ſaid Counſellor *Wynne*, to ſome ſuch effect, and makes one of the Papers now annexed or pinned to the ſaid produced *Draught* of the Articles of Agreement——Saith that, upon or about 29th *March* 1732 (above ſeven Months after the ſaid Draught had been delivered over as aforeſaid) the Defendant did deliver to this Deponent a Memorandum, or *Note in Writing*, now produced and markt (*Par.* N° 6) which the Deponent believes to be of the ſaid Lord *Baltimore*'s *own Hand*, containing a *new Demand*, that there ſhould be a *Clauſe* to *prohibit* any of the People of the reſpective Provinces, to carry on Commerce into the Bays of *Cheſapeak* and *Delaware*, by the means of any of the *Rivers* leading from one of the Provinces to the other, without the Leave of the Proprietor of the Province to whom the ſaid Bay did belong; Upon the Delivery whereof to the Deponent by the ſaid Lord *Baltimore*, his Lordſhip did ſignify to this Deponent, that his *People* in *Maryland inſiſted* on ſome *ſuch* Clauſe, and that, *therefore*, he *muſt* have it, or to ſome ſuch like effect. And this Deponent acquainted the Plaintiffs, or ſome of them, of ſuch *new* Demand, and ſhewed to them the ſaid laſt mentioned Memorandum or Note, and after ſome Conſideration they agreed to have ſome Clauſe *for ſuch* Purpoſe, and, accordingly a Draft of a *Clauſe* was drawn, which was afterwards ſettled by the ſaid Counſellor *Wynne*, and makes *one other* of the Papers now annexed or pinned to the ſaid produced Draft of the Articles of Agreement; and, at length, after *many other* Attendances, on the Lord *Baltimore*, *Counſellor Wynne*, and the ſaid Mr. *Sharpe*, this Deponent and the ſaid Mr. *Sharpe compared* the ſaid now produced *Draft* of the Articles of Agreement, *with Mr.* Sharpe's *Copy of the ſame Draft*, on or about the 26th of *April* 1732, and this Deponent was to get and did get the ſaid Map ſtamped or *printed* by the ſaid Mr. *Senex*, on the *Margin* of ſome *large* Skins of Parchment, and the ſaid Draft engroſt, for *ſix* ſeveral Parts of the ſaid Articles of Agreement, *three* to be kept by the ſaid Lord *Baltimore*, and *three* to be kept by the Plaintiffs, which being done, this Deponent was perſonally preſent on or about the 10th of *May* 1732, and did then ſee the Defendant and Plaintiffs reſpectively ſign, ſeal, and as their ſeveral Acts and Deeds, deliver the Parchment Articles of Agreement, of that Date, now produced and markt *Par.* (N° 7) and the Title *Baltimore*, and the Names *John Penn*, *Thomas Penn* and *Richard Penn*, thereunto ſeverally ſet and ſubſcribed, were and are of the proper Hand-writing of the Defendant, the Lord *Baltimore*, and of the Plaintiffs, ſeverally and reſpectively; and thereupon, the ſaid Mr. *Sharpe*, and this Deponent, and ſeveral *other* Witneſſes then preſent, did ſign an Endorſement or *Atteſtation*, as *Witneſſes*, on the *Back* of the ſaid Articles, of the Execution of the ſame, in ſuch manner as now appears thereon; and the Name *Ferdinando John Paris*, in ſuch manner as now appears ſubſcribed to ſuch Endorſement or Atteſtation, was and is of this Deponent's own proper Hand-writing; and at the ſame time this Deponent did alſo ſee the ſaid *William Penn* the Grandſon, and *Letitia Aubrey*, *Charles Fell*, and *Gulielma Maria Fell* (all of whom the Deponent then *very well* knew) reſpectively ſign, ſeal and deliver as their ſeveral and reſpective Acts and Deeds, the Deed-Poll or Endorſement, written on the Back of the ſaid engroſt Articles, which Deed-Poll or Endorſement alſo bears Date the ſame 10th of *May* 1732, and the ſeveral and reſpective Names, *William Penn*, *Letitia Aubrey*, *Charles Fell* and *Gulielma Maria Fell*, thereunto ſeverally ſet and ſubſcribed, were and are of the proper Hand-writings of them ſeverally and reſpectively; And thereupon, the ſaid Mr. *Sharpe* and this Deponent, and the like ſeveral other Witneſſes (then preſent) who had witneſſed the Execution of the ſaid Articles of Agreement, did alſo ſubſcribe their Names as Witneſſes to the Execution of the ſaid *Deed-Poll* or Indorſement, in ſuch manner as now appears at the foot of the ſame, and the Name *Ferdinando John Paris* thereunto alſo ſet and ſubſcribed, was and is of the Deponent's own proper Hand-writing; and ſaith, that the ſaid Articles being ſo executed, the Parties Plaintiffs and Defendant in this Cauſe, *congratulated each other* on the concluding ſuch Agreement, and *appeared* to be, *and expreſt themſelves extremely pleaſed at the ſettling the Diſputes* which had for ſo many Years before ſubſiſted between the two Families, and dined together that day.

The ſame. [*Int.* 17. *fol.* 260.] Saith that, ſo far as he knows or believes, the *firſt* Meetings in order to the ſaid Agreement, began *entirely* upon the Motion and Deſire of the Defendant the Lord *Baltimore*, and not upon the Motion or Requeſt of the Plaintiffs, but the Deponent perceived the Plaintiffs to be *very willing* to meet his Lordſhip, in order *to treat for an Agreement* between them; and the Deponent *well knows* that *the* Terms propoſed for their Agreement, at ſuch Meetings as before mentioned, were generally propoſed by, and were afterwards inſiſted upon by the Lord *Baltimore* himſelf, and ſeveral of which were complied with, and agreed to, by the Plaintiffs with *great Reluctancy and Unwillingneſs* on their Part, ſo far as ever this Deponent could judge, and as this Deponent *verily believes*; And this Deponent ſaw and heard the Defendant from time to time inſiſt upon his general Demands, as before-mentioned, and expreſs himſelf to the Purport that, if the Plaintiffs would not agree *thereto*, he muſt *renew* his *Claim* againſt them, as to the *three lower Counties*, or to the like, or ſome ſuch Effect. Doth not remember any *forcible* or *menacing* Methods, made uſe of by *any* of the Parties, in order to procure any particular Terms, *ſave* that at one of the *early* Meetings in order to the ſaid Agreement one of the Plaintiffs expreſt a *great deal of Regret and Concern* at the *very great* Expence, which, he ſaid, they had been put to, on the *former Diſputes and Conteſts*; which Matter the Deponent did, and doth apprehend and believe the Defendant *took ſome* advantage of; for that *afterwards* the Deponent obſerved the Defendant ſeemed *the more tenaciouſly* to *inſiſt* upon his Demands; and *ſeveral times* when the Plaintiffs appeared *unwilling* to agree to *his* Terms, he *intimated* that *then* he *muſt* renew his *former Claims*, or to ſome ſuch Effect; which the Deponent *then* lookt upon as menacing a *further Expence* to the Plaintiffs, which one of them had expreſt *ſome Fear or Dread of*; ſaith that the ſaid Agreement was *not haſtily* or *ſuddenly*, or by *any Surpriſe whatever* (to the Knowledge or *Belief* of this Deponent) concluded and ſettled, but, on the contrary, the ſaid Agreement and the Terms of it, were, to the Deponent's *Knowledge*, *under Deliberation*, from on or about 3d *June* 1731, until very near the time of executing the ſaid Articles, on or about 10th *May* 1732, which was about eleven Months; and ſaith that *great Part* of the ſaid Time was taken up in *apparent* Delays and Procraſtinations (as the Deponent then believed, and ſtill believes the ſame to be) uſed on the Part of the Lord *Baltimore* and his Agents, which the Deponent then *wondered* at, and could not *then diſcover* what ſhould be the meaning of, as his Lordſhip ſeemed very fond and deſirous of the ſaid Agreement; *but the Meaning of which* were *afterwards* explained (to the Deponent's Apprehenſion) by what the Lord *Baltimore himſelf*, at *ſeveral times* towards the *latter* Part of the ſaid Time, *declared* in this Deponent's Hearing, when he delivered over the ſaid new Demand, on, or about 29th *March* 1732, And *again*, when he *executed* the ſaid Articles, on, or about 10th *May* 1732, from *whence* this Deponent did then *collect* and believe, and doth ſtill *really believe*, that *ſuch Delays* were taken, in order that the Lord *Baltimore* might have time to receive the *Senſe* and *Opinion* of his Officers or Agents in *Maryland* upon ſuch Agreement, before he would compleat or execute the ſame. And ſaith, that he doth not remember *any other* Inſtance, of an Agreement between two *private* Parties, having proceeded with *ſuch great* Caution and Ceremony, or ſuch *long Deliberations*, as were uſed in order to the compleating the ſaid Articles of Agreement between the Parties to this Cauſe, nor doth this Deponent *know* or *believe* that any Impoſition or *Deceit* was *uſed* or *endeavoured* to be uſed by the Plaintiffs, or *any* of them, towards the Defendant, in order to the obtaining the ſaid Articles of Agreement.

Abraham Taylor, aged 37. [*Lib.* C. *fol.* 477. *Int.* 113. *fol.* 478.] Says he was a ſubſcribing Witneſs to, and proves the Execution of the Articles of Agreement of 10th *May* 1732, by all the Parties thereto, and was alſo a ſubſcribing Witneſs, and proves the Execution by the Plaintiffs of their *Commiſſion* to their Commiſſioners dated 12th *May* 1732.

The ſame. [*Int.* 114. *fol.* 481.] Says, that he being called in order to be a Witneſs to the Articles, did go to the Place where it was executed, that the Plaintiffs and the reſt of the Company met, before my Lord *Baltimore* came, and in ſome time afterwards he came; and excuſing himſelf for ſo long Stay, deſired they might proceed to the Buſineſs they had met about. That the ſaid Deed was then *read over*, and had ſeveral *Blanks* in it, which were all filled up till the Reader came to a Blank, which had been left for the *Penalty*. That thereupon it was aſked by Mr. *Paris*, as the Deponent remembers, what Sum ſhould be inſerted? To which, after ſome time, Lord *Baltimore* ſaid 'twas a Matter of Indifference to him whether it was 5000*l.* or 50,000*l.* Upon which the Parties agreed to have it 5000*l.* and it was accordingly *ſo* filled up.——Farther ſays, that, *after* the Execution of the ſaid Deed, the Lord *Baltimore* in Converſation *then ſaid*, That there had been *long Diſputes* between the ſaid Parties, and *he* was *very glad* there was now *an End* of them; that *he had received Letters from his Friends in* Maryland, adviſing him that he might have had *better* Terms [why then, ſurely, they knew *there*, what *theſe* Terms *were*] *but* that *he* was *perfectly ſatisfied* with *them*. And *then* named one Mr. *Lloyd*, in *Maryland*, and, at the ſame time, *James Logan* of *Penſilvania*, *and ſaid*, that, if *they* had had the Management of it he believed *they* would have protracted the Affair much longer; but *he* thought it *much better to end it*, *as they had now done*, and hoped to ſee Mr. *Penn* in *America* to *make an end* of the Affair, or to that Effect. And *both* Parties declared they were *well ſatisfied* with, and would *execute* the ſaid Agreement.——And further ſays, That he *then* collected from the ſaid Lord *Baltimore*'s Diſcourſe *at that time*, *that he* the ſaid Lord *Baltimore had tranſmitted* the Subſtance of the Agreement between him and the Plaintiffs to *ſome of his Friends in* Maryland, and had the Letters *aforeſaid* in *Anſwer* thereto; but, *notwithſtanding* thoſe Letters, he was *perfectly well ſatisfied* with the ſaid Agreement.

Serjeant *William Wynne*, aged 49. [*Lib.* A. *fol.* 164. *Int.* 29. *fol.* 166.] Saith that he hath lookt upon the *Paper Draft* of Articles of Agreement, now produced and markt *Par.* (N° 3.) and that the ſaid produced Draft was left at the Deponent's late Chambers in the *Middle-Temple*, *London*, by Mr. *Sharpe*, or one of his Clerks, (as this Deponent believes) on the Behalf, and by the Order (as he believes) of the Defendant the Lord *Baltimore* for the Deponent's Peruſal, which ſaid Mr. *Sharpe* is, or was (as the Deponent believes) Agent or Sollicitor for the ſaid Defendant. And ſaith, that he does not *remember*, that he the Deponent was ever attended or conſulted with, about the ſaid produced Draft, either by the Plaintiffs in Perſon, or any of them, or by the ſaid Defendant in Perſon, or by any Sollicitors or Agents for the ſaid Parties, or any, or either of them, and is *inclined* to believe that he was not; cannot remember *how long* the ſaid produced Draft lay before this Deponent, but believes it might lie before him about 10 Days, or a Fortnight, and believes he did *ſtrike out* ſeveral Parts of the ſaid produced Draft, and make *other* Alterations therein with a *Lead Pencil*; ſome of which the Deponent obſerves have been ſince wrote over with *Ink*; and after he had made *ſuch* Alterations therein, *he did approve of the* ſaid produced Draft on the Behalf of the Defendant, ſo far as the Deponent could, without ſpeaking to the Defendant or his Sollicitor, touching the ſame. And the Deponent ſaith, that he had *never* been applied to, or conſulted by, the Plaintiffs, or *any* of them, relating to *any* of their Affairs *whatſoever before* the ſaid produced Draught was laid before this Deponent, as aforeſaid, or *ſince*, but, this Deponent *had ſeveral times* before that time, been applied to, and *conſulted*, by and *on the Behalf of the ſaid Defendant*, in the Way of this Deponent's Profeſſion, as a Council *relating to the Defendant's Eſtate and Concerns in* Maryland, and elſewhere; and in particular, the Deponent well *remembers* that he had been acquainted by the ſaid Defendant of the *long Diſputes* that had ſubſiſted between the Defendant and his Anceſtors as Proprietors of the Province of *Maryland* aforeſaid, and the Plaintiffs and their Anceſtors as Proprietors of the Province of *Penſilvania* relating to the Boundaries of their reſpective Provinces. And ſaith, that he was *requeſted by the Defendant*, in or about *May* 1731, or 1732, (as near as this Deponent can recollect the *time*) to meet the Plaintiffs and their Agents, *to try if they could come to any amicable Agreement*, touching the ſaid Boundaries; and the Deponent was accordingly *preſent* at *ſeveral* Meetings between the ſaid Defendant and the ſaid Mr. *Sharpe*, his Agent or Sollicitor, and ſome of the *Penns*, whom the Deponent believes to be the Plaintiffs in this Cauſe, and Mr. *Paris* their Agent or Sollicitor; and remembers that the ſaid Parties did, *at length*, come to *ſome* Agreements, which was *ordered to be reduced into Writing*, but the *Particulars* thereof, the Deponent cannot, at this diſtance of time, *recollect*, any otherwiſe, than from the ſaid produced Draft, which the Deponent believes was drawn, or prepared in *conſequence of ſuch Meetings and Agreement*, and ſoon afterwards laid before this Deponent to peruſe and ſettle on the Behalf of the ſaid Defendant as aforeſaid; but *who* drew, or prepared the ſaid produced Draught, he knows not.

Mary Senex, aged 52. [*Lib.* A. *fol.* 154. *Int.* 30. *fol.* 156.] Well knew *John Senex*, late of *Fleet-ſtreet*, *London*, Mathematician, who was her late Huſband, and he died the latter End of *December* 1740, and knew him for about 18 or 20 Years before his Death, and was his Wife about 18 or 19 Years of that time, and did *frequently ſee him write*, and is *well acquainted* with his Character or Manner of Hand-writing, and hath lookt upon the Paper-Writing contained in one Sheet now produced, and markt *Par.* (N° 5.) and does *verily believe* that the two Pages of the Body of the ſaid produced Paper-Writing, and the Name *John Senex*, ſet at the End thereof, is and are of the ſaid *John Senex*'s Hand-Writing.

This

This Exhibit is Mr. *Senex*'s *written Opinion* upon the Articles.

Thomas Smith, aged 29 [*Lib.* A. *fol.* 158. *Int.* 30. *fol.* 159.] Well knew *John Senex*, who is dead, and died latter End of *December* 1740, and knew him between 13 and 14 Years before his Death, and firſt knew him by being put *Apprentice* to him, and ſerved him as ſuch *ſeven Years*, and lived *afterwards* with him as his *Journeyman*, to the time of his Death, ſaith, he often ſaw the ſaid *John Senex write*, and is *well acquainted* with his Character or Manner of Hand-writing, and hath lookt upon the Paper-Writing contained in one Sheet, now produced and markt *Par.* (N° 5.) and really believes the two Pages of the Body of the ſaid produced Paper-Writing, and the Name *John Senex* ſet at the End thereof is and are of the ſaid *John Senex*'s own Hand-writing; He has alſo lookt upon the *printed Map* or Plan, upon Paper, now produced and markt *Sen.* (N° 1.) and remembers the *engraving the Plate* for the ſaid produced Map or Plan, and it was graved by one *Thomas Hutchinſon*, who was at that time *Servant or Journeyman* (but had been *Apprentice*) to the ſaid *John Senex*, and who left the ſaid *John Senex*'s Service and Family 8 *or* 10 *Years ago, or upwards*; and ſaith, the ſaid produced written *Paper*, and the ſaid produced *Map or Plan*, have relation to *each other*, and *both* relate to one and the *ſame* Subject, (as he really believes) for the Deponent hath compared them together, and finds they relate to the ſame Lands, and that the dotted Lines contained in the ſaid produced printed Map or Plan, agree or correſpond with the Boundaries deſcribed in the ſaid produced written Paper. And the Deponent ſaith, that he hath likewiſe lookt upon the *Parchment Deed* now produced, markt *Par.* (N° 7.) and upon the Map or Plan, ſtampt or printed on the Margin of *that Deed*, and has compared the ſaid produced *Paper printed Map* or Plan, with the ſaid printed *Map or Plan* upon the ſaid produced *Deed*, and he does not find *any* Variation or Difference between them, but is well ſatisfied and aſſured they were *both* ſtampt or printed from *one* and the *ſame* Plate.

Thomas Hutchinſon, aged 35. [*Lib.* A. *fol.* 147. *Int.* 30. *fol.* 148.] Did well know Mr. *John Senex*, and the ſaid *John Senex* is dead, and died about a Year and a half ſince, as *this Deponent believes*, and knew him for many Years; for the Deponent, about the Year 1720, was put *Apprentice* to the ſaid *John Senex*, and lived with him as ſuch for the Space of *ſeven* Years, and afterwards lived with him and workt for him as a *Journeyman*, for about *three* Years more, and during the *Time* this Deponent ſo lived with the ſaid *John Senex* as aforeſaid, this Deponent did *frequently ſee him write*, and thereby became *well acquainted* with his Character and Manner of Hand-writing; and ſaith, he hath lookt upon the Paper-Writing contained in one Sheet, now produced and markt *Par.* (N° 5.) and does verily believe, that the two Pages of the Body of the ſaid produced Paper-Writing, and the Name *John Senex* ſet at the End thereof, is and are of the ſaid *John Senex*'s own Hand-writing; and ſaith, he hath alſo lookt upon the *printed Map* or Plan upon *Paper* now produced and markt *Sen.* (N° 1.) and well remembers the engraving of the Plate for *the ſaid* produced Map or Plan, for the ſame was graved by *this Deponent*, during the time he lived with the ſaid Mr. *Senex* as aforeſaid, but whether before or after the Expiration of his Apprenticeſhip, he does not at this Diſtance of Time remember; and ſaith, the ſaid produced written Paper, and the ſaid produced Map or Plan, have relation to each other, and both relate to one and the ſame Subject, as he moſt aſſuredly believes; for that the ſaid produced written Paper ſeems to the Deponent to contain Directions for drawing the ſaid Map or Plan, and by comparing the ſame together, this Deponent finds they correſpond with each other; And ſaith, that he hath likewiſe looked upon the *Parchment Deed* now produced, markt *Par.* (N° 7.) and upon the Map or Plan ſtamped or printed on the Margin of *that* Deed, and has compared the aforeſaid *Paper* printed Map or Plan with the ſaid printed Map or Plan upon the ſaid produced *Deed*, and moſt aſſuredly believes they were *both* ſtampt or printed off from one and the *ſame Plate*, for they are exact Copies of each other, and he does not find the leaſt Variation or Difference between the one and the other.

Ferd. John Paris. [*Lib.* A. *fol.* 195. *Int.* 22. *fol.* 288.] That upon or about the ſaid 10*th May* 1732, when the ſaid engroſt Articles of Agreement were executed, the Deponent had *before* prepared, and *did then produce* to the ſaid Lord *Baltimore*, and to his ſaid Sollicitor, the Copy or Draft of a *Commiſſion* to be executed by the now Plaintiffs, for authoriſing ſeven Perſons or ſome leſſer Number to be therein named to carry the ſaid Agreement into Execution in *America*, and which Draft of a Commiſſion this Deponent verily believes was and is the Paper markt *Par.* (N° 8.) now produced, and the ſaid Lord *Baltimore*, and his Sollicitor ſo well approved of the ſame, that they, or one of them, *deſired* that this Deponent would get engroſt *like Commiſſions* from the Lord *Baltimore* to be granted to a like Number of Commiſſioners *on his Part*, for the like purpoſe; and *to enable* this Deponent ſo to do, the ſaid Mr. *Sharpe* on the *Backſide* of the ſaid Draft *wrote down the Names* of ſeven Perſons for Commiſſioners for *Maryland*; and accordingly this Deponent had *both Setts* of Commiſſions engroſt by this Deponent's Clerk (with the before-mentioned *Map or Plan* ſtampt on the Margin of *each* of them alſo) one Sett of Commiſſions for the Plaintiffs to execute, to authorize *their* Commiſſioners; and another Sett for the Defendant to execute to authorize *his* Commiſſioners to carry the ſaid Articles into Execution in *America*, and doth verily believe there was *no difference* between the Commiſſions prepared for, and executed by the Plaintiffs for ſuch purpoſe as aforeſaid, and thoſe prepared for and executed by the Defendant for ſuch purpoſe, ſave *only* in the Names, Titles, Additions, and Deſcriptions of the Perſons *granting* ſuch Authority, and of the Perſons to whom ſuch Authority was *granted*, and in the Names of the reſpective Provinces and Counties.

20th Branch, Of the ſeveral Proceedings of the Commiſſioners in *America*, Day by Day, in order to have carried the Agreement into Execution.

James Steel [*Lib.* C. *Fol.* 559. *Int.* 67. *Fol.* 579.] Says that Governor *Gordon* and Meſſieurs *Preſton, Hamilton, Charles* and the Affirmant, the Plaintiffs Commiſſioners, and Governor *Ogle* and Meſſieurs *Calvert, Loyd, Howard, Bennett* and *Ward*, the Defendant's Commiſſioners, met, at *New Town* in *Maryland*, on 6th *October* 1732. which was the *firſt* Quorum of the ſaid Commiſſioners, and adjourned to the next Morning.

* *The ſame* [*Int.* 68. *Fol.* 580.] Says that the ſame Commiſſioners met, at *Newtown*, on 7th *October* 1732. when the *Articles* of Agreement between the Plaintiffs and Defendant, and their ſeveral *Commiſſions* to the Commiſſioners were firſt *read*. *Whereupon* the ſaid *Ogle objected*, that he did not think the *Penſilvania* Commiſſioners had *ſufficient Power* to proceed in the Execution of the ſaid Articles, becauſe ſome Branches of the Plaintiffs Family had *not ſigned the Commiſſion* of the Plaintiffs Commiſſioners; To which it was replied, by ſome of the Plaintiffs Commiſſioners, that *that was ſupplied*, by an Indorſement, made on the Commiſſions or Articles, in the Hands of the Defendant's Commiſſioners, (but as well as the Affirmant remembers, it was in the *Articles*) whereby, ſome Perſons, Branches of the ſaid Family, had *covenanted not to obſtruct* the Execution of the ſaid Articles, or to that Effect; upon which, the ſaid *Samuel Ogle* ſaid, *he waved* it for *the preſent:* That the Commiſſioners on the Part of *Penſilvania*, *then* did *deſire* and inſiſt upon it, *that Clerks* might be appointed, to *take Minutes* of the Proceedings of *all* the ſaid Commiſſioners, that *what they had done might appear*; To which it was anſwered, by the ſaid *Samuel Ogle*, on the Behalf of the Defendant's Commiſſioners, that there was no *Neceſſity* for the ſame. That when the Plaintiffs Commiſſioners found they *could not procure* the Conſent of the Defendant's Commiſſioners to admit *Clerks* for the Purpoſe aforeſaid, the ſaid Plaintiffs Commiſſioners *then* propoſed to the Defendant's Commiſſioners, *to appoint ſome of the Commiſſioners to take Minutes* of their ſaid Proceedings; whereupon, it was agreed that *Robert Charles* and *Michael Howard* aforeſaid, ſhould draw up *two Minutes* thereof, to be *exchanged* by the Commiſſioners on each Side; and then, the ſaid Commiſſioners departed, from the Houſe where they ſat, and went to the Houſe of Mr. *James Harris* in *Newtown* aforeſaid; That, when the ſaid Commiſſioners met, at the Houſe of the ſaid *Harris*, the Plaintiffs Commiſſioners brought *David French* one of the preſent Commiſſioners [for Examination of the Witneſſes] into the Room, *to be a Witneſs to the exchanging the ſaid Minutes*. That, ſoon after the ſaid Commiſſioners came into the Room, the ſaid *Samuel Ogle*, *obſerving* that the ſaid *David French* was in the Room, aſked whether he *was a Commiſſioner?* To which it was ſaid he was *not*, but was a Gentleman the Plaintiffs Commiſſioners had brought with them, and then the ſaid *Samuel Ogle* intimated, that *if he was not* a Commiſſioner, he had no *Buſineſs there*; whereupon the ſaid *David French withdrew*. And further ſaith that, to the beſt of his Memory, Mr. *James Hamilton* was *alſo preſent* with the ſaid *David French*; and the *ſame Objection was made to him*, at the ſame Time, which *occaſioned his withdrawing* in like manner. That, *afterwards* the ſaid *Robert Charles* and *Michael Howard*, did each produce a Minute, which were Copies of each other, taken in purſuance of the ſaid Appointment; and thereupon, the Plaintiffs Commiſſioners did *require and inſiſt*, that one or more of the Commiſſioners on each Side, ſhould ſign *the ſame Minutes*, and exchange them. That the Defendant's Commiſſioners did *then refuſe* to ſign the ſame; and the ſaid *Michael Howard*, on refuſing to ſign the ſame, ſaid *he would not do* it, for that he did not know, if he did, but he might be called over to *England* to anſwer for it. And further ſaith that he hath looked on the *Paper Writing* now ſhewn to him, marked N° *A.* 1. and *believes* the ſame is *one* of the Minutes aforeſaid, which the Defendant's Commiſſioners refuſed *to ſign*, as aforeſaid. That he knows not of whoſe Hand Writing the ſame Paper is, but was informed it was wrote by a young Man belonging to the ſaid *Michael Howard*; That *afterward* upon an Adjournment being *propoſed* the Plaintiffs Commiſſioners deſired, that it might be *to a ſhort* Day, in regard the Year was far *ſpent*, and the *proper Time* for the Buſineſs, the Commiſſioners had to do, would *ſoon be over*; To which the Defendant's Commiſſioners anſwered, that by *Reaſon of the publick Affairs of the Province of* Maryland, *they could not attend* before the 30th Day of the ſame Month of *October*; whereupon the Commiſſioners, on both Sides, agreed to adjourn, to that Day, at *Newcaſtle* Town on *Delaware*, as *the moſt proper Place to begin the ſaid Buſineſs*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 67. *Fol.* 347.] Gives the *very ſame* Account, as is juſt now given by Mr. *Steel*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 68. *Fol.* 355.] Adds *materially*, That at the ſaid Meeting on 7th *October* it was *agreed* by the Commiſſioners on *both* Sides, that the *firſt thing neceſſary* to be done was, to meet at *Newcaſtle* to *mark out the Circle mentioned* in the Agreement——That the Plaintiffs Commiſſioners were ready on 7th *October*, and *deſirous*, to proceed to *Newcaſtle*, to run the ſaid Circle; but believes the Defendant's Commiſſioners were *not* then prepared for the ſame; not apprehending it was deſign'd to proceed *immediately* to running any Lines; but *then*, ſhewed no Unwillingneſs to run the ſaid Circle, and *therefore* all the Commiſſioners agreed to adjourn and meet at *Newcaſtle* aforeſaid, on the 30th *October*, *for the Purpoſe aforeſaid*.——Says he has looked on the Paper A, N° 1. which he takes to be *the* Minute drawn by *Howard* and *Charles*, mentioned in his Anſwer to 67 Int. Does not know of whoſe Hand Writing it is, but believes it was writ by a young Man of *Michael Howard*'s.

Note well, The Articles of Agreement between the Parties themſelves, ſtipulated expreſly that thoſe very Parties ſhould give the Commiſſions to their Commiſſioners, and that Clauſe was tranſlated *verbatim* into the *Body* of the Commiſſion *itſelf*; yet, Mr. *Ogle fancied* ours was not a good Commiſſion unleſs ſome *other Perſons* had joined in our Commiſſion; more than his own Maſter had ſtipulated for.

Benjamin Taſker the Defendant's Witneſs, croſs examined [*Lib.* E. *Fol.* 49. *Int.* 22. *Fol.* 56, 23. *Fol.* 56, and 20. *Fol.* 63.] Says there were Articles of Agreement between the Plaintiffs and Defendant, of *May* 1732. and that Commiſſions did iſſue from the Plaintiffs and Defendant, and Commiſſioners were thereby appointed for marking and laying out the Limits and Bounds, and that he was preſent at *divers* of the Meetings between the Commiſſioners, in the Capacity of one of the Defendant's Commiſſioners; and to his beſt *Remembrance* there was no Propoſal made, at any the Meetings he was preſent at, for appointing *Clerks* to take *Minutes* of the Commiſſioners Proceedings.——*But* has heard, that at the *firſt* Meeting of the ſaid Commiſſioners, which he was not at, ſuch a Propoſal was made for appointing ſuch Clerks, but *by whom* it was made knows not, but believes it was not *agreed to*. And has heard it was *then* alſo propoſed, (but by whom knows not) that a *Commiſſioner* on each Side ſhould be appointed to take ſuch *Minutes*, which was *alſo not agreed to*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 69. *Fol.* 358.] Says that Meſſieurs *Ogle, Loyd, Howard, Bennett* and *Taſker*, Commiſſioners for the Defendant, and all the *ſeven* Plaintiffs Commiſſioners met at *Newcaſtle*, on 30th *October* 1732, to proceed according to their former *Agreement*, to *run the Circle* about *Newcaſtle*, mentioned in the Agreement; but the Commiſſioners *did not* proceed therein, being *ſtopt* by the *Defendant's* Commiſſioners *requiring* to *ſee* the *Grant* of *Penſilvania*, and the *Deeds of Feoffment*, in the Articles mentioned, to ſee whether the ſaid Circle, in *them* mentioned, agreed with the Circle *mentioned* in the Articles? The Plaintiffs Commiſſioners informed them they had met *to execute the Articles* of Agreement, and not *to examine the Rights* of the Plaintiffs and Defendant ——Yet,—as it was in their *Power*, they *would comply* with their Deſire; and, accordingly, one of the Plaintiffs Commiſſioners went to *Philadelphia* for them, and the Commiſſioners adjourned to next Day.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 69. *Fol.* 171.] Says much the ſame, and that the Commiſſioners were *ſtopt* from proceeding, by Governor *Ogle*'s *inſiſting* that that Grant and thoſe Deeds ſhould be produced, which, ſays he, *tho' manifeſtly needleſs*, in meer Condeſcenſion to him was complied with.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 69. *Fol.* 588.] Says nearly the ſame Thing.

Andrew Hamilton proves this alſo, but he does it by enumerating this and many other Paſſages, as *Evidences*, that the Defendant's Commiſſioners did never intend to proceed.

Note well, It will come out preſently that Lord *Baltimore* was then hourly expected to arrive in *Maryland:* This Charter, and theſe Deeds of Feoffment, might, very probably, have been in *England*; if ſo, this *Artifice* of Governor *Ogle*'s had ſtopt the Affair a fine Time, but unfortunately, for him, they happen'd to be but 36 Miles off, at *Philadelphia*, and ſo might be, and were ſent for, and *that* Attempt to ſpin out the Time defeated.

Benjamin Taſker the Defendant's Witneſs and Commiſſioner, being croſs examined, [*Lib.* E. *Fol.* 49. *Int.* 15. *Fol.* 65.] Says there was a Meeting of the Commiſſioners on 30th *October* on both Sides, at *Newcaſtle*, and that they adjourned, but does not remember at *whoſe* Inſtance that Adjournment was propoſed.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 70. *Fol.* 360.] That the ſaid Commiſſioners met at *Newcaſtle* 31ſt *October* in the *Morning*, and the Plaintiffs Commiſſioners produced the Grant of *Penſilvania*, and an Exemplification of the Deeds of Feoffment, and upon *comparing* the ſaid Articles with the ſaid Grant and Deeds, it appeared the Deſcription of the Circle in the ſaid Grant and Deeds was *truly recited* in the Articles. *Notwithſtanding* which, the *Defendant's* Commiſſioners inſiſted upon having *Copies* of the ſaid deſcriptive Parts. And, altho' the Plaintiffs Commiſſioners thought that Demand *unreaſonable*——Yet——to remove *all* Objections, they gave the Defendant's Commiſſioners thoſe Copies ——*Then* the Plaintiffs Commiſſioners propoſed to *begin* to mark out the ſaid Circle——To which the *Defendant's* Commiſſioners replied, *They* muſt take ſome *Time to conſider thereof*—— and the Commiſſioners adjourned to the Afternoon.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 70. Fol. 173.] Confirms the ſame with this Addition, that the Defendant's Commiſſioners deſired to have the Copies of the deſcriptive Parts *ſigned* by the Plaintiffs Commiſſioners, which was done.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 70. *Fol.* 590.] Was the Commiſſioner who went to fetch the Grant and Feoffments, and ſays the Exemplification of the Feoffments were under the Great Seal of *New York*. He alſo ſays that the Defendant's Commiſſioners demanded Copies of the deſcriptive Parts to be *ſigned* by the Plaintiffs Commiſſioners, and that it was objected to as *entirely* unneceſſary, ſeeing the Defendant's Commiſſioners *themſelves* had compared, and found the ſame *exactly agreeable* to the Articles; but that the Plaintiffs Commiſſioners gave them the required Copies *ſigned*.

Andrew Hamilton in his general Account ſays they at firſt demanded Copies of the *whole* Deeds, which were *very long*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 71. *Fol.* 364.] That the Commiſſioners met again, at *Newcaſtle*, on ſaid 31ſt *October* in the Afternoon. And the *Plaintiffs* Commiſſioners then *propoſing* that the Commiſſioners ſhould *proceed* to the marking and running out the Circle, as directed by the Agreement, the Defendant's Commiſſioners *thereupon* ſtarted a *Difficulty* about

running

running the Circle, alledging that as the Articles had directed a *Circle* to be run, but had not fixed or aſcertained where the *Center* ſhould be, they apprehended it was not in *their* Power to fix ſuch *Center*. ——The Plaintiffs Commiſſioners replied that, as *both* the Plaintiffs and Defendant had *agreed*, and had veſted a Power in the Commiſſioners to mark and run out the Circle, they had *likewiſe* granted them the *Means* and full Power to find and fix *a Center* for ſuch Circle, and to do *every thing neceſſary* to the effectual running and compleating ſuch Circle. ——And, amongſt their Debates, the Plaintiffs Commiſſioners ſaid they apprehended that the ſaid *Articles* of Agreement, and the Commiſſions thereupon, directed a Circle to be run at the *Diſtance* of 12 *Engliſh* Statute Miles *from the ſaid Town, without including the ſaid Town*——but——they the *Plaintiffs Commiſſioners* were *ſo deſirous* of, and intent upon, the carrying the ſaid Articles into Execution, that, the Affirmant believes, they would have conſented to fix a Center, *almoſt* in any Part of *the Town*, that would pleaſe the Defendant's Commiſſioners, to induce them to come into the running the ſaid Circle. ——And, after ſome farther Debate, the Commiſſioners on each Side agreed to go out and *walk* about the Town, to ſee if they could find and agree upon a proper Place for ſuch Centre; and accordingly, did walk about and view the Town with ſeveral of the principal Inhabitants thereof, but not agreeing upon a Place for fixing ſuch Center, they adjoruned till next Morning.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 71. *Fol.* 175.] Gives much the like Account.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 71. *Fol.* 593.] Gives the like Account, only adds that the *Defendant's* Commiſſioners *refuſed* to proceed to run the Circle, for the Reaſons above-mentioned—— That the *Plaintiffs* Commiſſioners *earneſtly deſired* then to proceed, and told them it was *then* the *Afternoon* of the *laſt* Day which the Articles had limited for *beginning* the Work. ——That the Defendant's Commiſſioners anſwered that the ſame was *begun*. That the Plaintiffs Commiſſioners inſiſted that *Surveyors* ſhould *ſurvey* the Town, in order to find the Center *of the Town*——To which Mr. *Ogle* anſwered there was *no Occaſion* thereof, and propoſed that the Commiſſioners ſhould *walk* about the Town, which they did.

Andrew Hamilton confirms the ſame in another Place, very ſtrongly, and ſays that it was propoſed to fix the *Court-houſe* for the Center, which was not *one third* of the Breadth of the Town from the River Side, but all rejected.

Note well, This *new* Inſtance of *affected* Chicanery. The Feoffment granted, *firſt* the Town, and *then all* the Lands within the Compaſs or Circle of 12 Miles *about the Town*; the Agreement was, that the Circle ſhould be drawn at 12 Miles *Diſtance from the Town*. My Lord's own Mathematician, Mr. *Senex*, told him, in his *written* Opinion upon the Draft of that Agreement, that *Newcaſtle* was to be as *a Center*, and the Circle was to be drawn 12 Miles *from the Town*——Notwithſtanding all this, Mr. *Ogle* can't find a Center *in* the Town—To prevent a Diſpute, we offer him a Center *in the Town*, and, by the way, take *leſs than* one Third of the Town to us, and give my Lord *more than two Thirds* of the Town *itſelf*, No! That won't do. Nay, what ſays Mr. *Preſton?* Why that we were *ſo* deſirous to proceed, that we would have agreed to fix a Center almoſt in *any* Part of the Town. But that would not do. For if they had agreed on a *Center*, then, they muſt have *proceeded*. But, it's *plain*, *Ogle* had *reſolved* they never ſhould proceed *one ſingle Step*. There cannot poſſibly be any ſtronger Proof of it, than this. When we had agreed to put a *Center in* the Town, and deſired that *Surveyors* might ſurvey it, in order to find the *Center* of it, He anſwers, No! there is *no Occaſion*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 72. *Fol.* 368.] That the ſaid Commiſſioners met again at *Newcaſtle* on 1ſt *November* 1732, in the Morning.——And then Governor *Ogle* declared, *he* having adviſed both with Matnematicians and Lawyers, was not ſatisfyed that the Commiſſioners had *any Power* to find or fix a *Center* for the Circle directed to be run by their Commiſſions and the ſaid Agreement——And ſaid further, that the Defendant *himſelf*, being expected to arrive *in Maryland* in a *very ſhort* Time, he, *therefore deſired* that they might *adjourn, in order* that *he* and the reſt of the *Defendant's* Commiſſioners, might have an Opportunity, *to conſult his Lordſhip* thereon; and declared *He* did not doubt but my Lord *would give* ſome Directions to remove the Difficulty about the Center, or to that Effect. To which the *Plaintiffs* Commiſſioners anſwered, *They* were *much averſe* to ſuch Adjournment, but, ſince the Defendant's Commiſſioners ſeemed *ſo preſſing* for it, they therefore deſired to know *what Time* the Defendant's Commiſſioners propoſed to adjourn to? And that they might have Time to conſider of it; and then they adjourned to the Afternoon.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 72. *Fol.* 177.] Gives the ſame Account, only ſays that *Ogle* expected my Lord's Arrival *every Day*.

Note well, The *only two* of the Defendant's original Commiſſioners who are examined, ſwear poſitively they never contrived, *along with my Lord*, to defeat the Articles *before* ſuch Time as the Commiſſioners differed with each other.——How ſhould they? The Articles and Commiſſion executed 10 and 12 *May* 1732, did not get to *America* till Middle of *Auguſt*. Then, or within a few Days after my Lord muſt have ſet out from hence on his Voyage, for he was expected, and actually arrived in *Maryland* on 14 *November* 1732. ——A very pretty way they have taken to *deny the* Charge in our Bill, that they did, *generally*, contrive *together*, to defeat the Articles, namely, that they did not ſo contrive, *before* ſuch a particular Time.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 73. *Fol.* 371.] That the ſaid Commiſſioners met in the Afternoon, and the Plaintiffs Commiſſioners *then propoſed* and *inſiſted* that *full Minutes* might be taken of the Commiſſioners *Proceedings*; but the Defendant's Commiſſioners *objected thereto*, and inſiſted they were *entirely needleſs*.——And ſays the *Defendant's* Commiſſioners then *propoſed* to have *a long Adjournment*, but he does not remember the *preciſe* Time, but remembers it was for a *longer Time* than the Plaintiffs Commiſſioners then cared to comply to, and then they adjourned to next Morning.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 73. *Fol.* 180.] Confirms the foregoing, and ſays, the *Maryland* Commiſſioners *abſolutely refuſed* to have *full* Minutes, and propoſed only *ſhort* Minutes, to enter the *Meetings* and *Adjournments*. ——He remembers the Time propoſed for Adjournment, and ſays Governor *Ogle* propoſed to adjourn *for three Months*. That the *Penſilvania* Commiſſioners did not agree thereto, but deſired Time to conſider of it, and then the Commiſſioners adjourned to next Day.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 74. *Fol.* 373.] That the ſaid Commiſſioners met the ſecond of *November* 1732, at *Newcaſtle*, and the *Plaintiffs* Commiſſioners then declared that altho' *they* had come there with a *full Intent* and *Expectation* to enter upon the Buſineſs of *executing* their Commiſſion, purſuant to the Agreement, and *were prepared* with their Artiſts, and in *full Readineſs* to go upon it,—yet—as the *Defendant's* Commiſſioners were ſo *preſſing* to have an Adjournment, and they the Plaintiffs Commiſſioners had ſo *great* an *Opinion* of the Defendant's *Honour*, that they did not *doubt* but *he* would give proper Directions to *his* Commiſſioners to remove the Difficulty that obſtructed their proceeding in the ſaid Buſineſs; They, *therefore* would comply to *gratify* the Defendant's Commiſſioners in *ſuch* Adjournment——And to the beſt of his Remembrance there was a *Paper or Minute* prepared by the Plaintiffs Commiſſioners *of the Purport aboveſaid*, and which was then *publickly read* at this Meeting by the Plaintiffs Commiſſioners, or ſome of them.

James Logan [*Lib.* B. *fol.* 76. *Int.* 74. *fol.* 182.] Confirms the foregoing Account.

Andrew Hamilton, in his Account, given in another Form, confirms it alſo.

Note, The Defendant's Commiſſioners have huddled up a *ſhort* Minute to ſerve *their* turn, of a Meeting as upon 30th *October*, and Adjournment to 1 *February*; to obviate which, pleaſe to take the following Anſwer.

Samuel Preſton. [*Lib.* B. *fol.* 312. *Int.* 75. *fol.* 375.] That the *ſeveral* Tranſactions already mentioned by him, which are ſaid to have happened, on 30 and 31ſt *October*, and 1 and 2 *November* 1732, at *Newcaſtle*, did happen on thoſe *ſeveral Days*, and *not* on 30th *October only*.——Says, *He* did not take any Minutes of the Proceedings of the Commiſſioners at *Newcaſtle*, but believes Meſſieurs *Hamilton*, *Logan*, and *Charles* took them.——Can't ſay they were taken *immediately* after their ſeveral Meetings, but they were *daily* taken *and* ſhewn to *all* the Plaintiff's Commiſſioners, *during the ſeveral Meetings* of all the ſaid Commiſſioners, and were by the ſaid Plaintiff's Commiſſioners approved of.—— Does not know *who* wrote the ſaid Minutes, but believes it was Mr. *Charles*; and ſays, that on ſaid 2d *November* one of the Plaintiffs Commiſſioners *produced to the Defendant's Commiſſioners* certain Minutes, which had been taken and kept by the Plaintiffs Commiſſioners; and Mr. *Logan*, or *Charles*, *read the ſame to the Defendant's Commiſſioners*, and has lookt on the Paper markt *C*, and knows not of *whoſe* Hand-writing the Body of it is, which is not ſigned, but takes it to be a Copy of the ſaid Minutes which were read by the Plaintiffs Commiſſioners to the Defendant's Commiſſioners as aforeſaid, and which he verily believes were *true* Minutes of the Proceedings of all the Commiſſioners at *Newcaſtle*, as the ſaid Minutes purported to be.——Says, that *after reading* the ſaid Minutes, the Plaintiff's Commiſſioners aſkt the Defendant's Commiſſioners whether they had *any Objection* to make to the *Truth* of thoſe Minutes? Governour *Ogle* replied, the Plaintiffs Commiſſioners had a right to take Minutes, but he had *nothing* to ſay to them; yet, if he had taken thoſe Minutes, he could have placed the *Arguments* uſed by the Defendant's Commiſſioners in a *ſtronger* Light, or to that Effect; and then ſaid, he had taken Minutes, and pulled a Paper out of his Pocket, which he read, purporting the *Meetings* and *Adjournment* of the Commiſſioners at *Newtown* in *Maryland*, and at *Newcaſtle*; to which the Plaintiffs Commiſſioners objected, as being *too ſhort* and imperfect, or Words to that Effect.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 75. *Fol.* 183.] Confirms all the foregoing. And ſays *He did* take Minutes, and that they were read to the Defendant's Commiſſioners, and the Paper C. is a true Copy of them, and contains *true* Minutes of the ſaid Commiſſioners, from their firſt Meeting on 30th *October* to their Adjournment on 2d *November*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 76. *Fol.* 331.] Says that on Governor *Ogle*'s producing and reading the ſaid Minutes, the Plaintiffs Commiſſioners *objected* to *thoſe Minutes*, as containing *ſomething alledged to be ſaid* by the Plaintiffs Commiſſioners, which had never *been ſaid* by them, but *he* can't remember the Particulars.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 76. *Fol.* 187.] Who has juſt now ſaid that *he* took Minutes, He ſays, that on 2d *November* Governor *Ogle* produced *a Paper of Notes* or Minutes, and gave it to another of the Defendant's Commiſſioners to read, and the ſame was read, and the Import was, that five of the Defendant's Commiſſioners having *met* five of the Plaintiffs Commiſſioners, in purſuance of their laſt Adjournment at *Newtown*, on the 30th of *October*, in order to proceed to the Execution of the 2*d* Article of the ſaid Agreement, the Defendant's Commiſſioners deſired a *Sight* of the Charter and Deeds of Feoffment; to which one of the Plaintiffs Commiſſioners replied, that the Draft of the Commiſſions being peruſed by Counſel learned in the Law, and ſigned by the Proprietors on both Sides, the Recitals *therein* were ſufficient, *whether true or falſe*.—To which Minutes, when read, Mr. *Hamilton*, one of the Plaintiffs Commiſſioners, who had ſtrenuouſly argued againſt the *Neceſſity* of ſuch Demand of *ſeeing* the ſaid Charter and Deeds, immediately *anſwered*, that there were no ſuch Words as (*whether true or falſe*) uſed *by him, or by any other* of the Plaintiffs Commiſſioners; which was *unanimouſly confirmed* by the *whole Number* of the Plaintiffs Commiſſioners then preſent——And, to this the ſaid Governor *Ogle* replying, that, if the ſaid Words were *not uſed*, yet, what was ſaid, was *conſequential* of it, or to that Effect, put up his ſaid Paper of Minutes in his Pocket, *without* offering to amend the ſame; and obſerving the *Adjournment* was *agreed to*, the Company roſe and departed.

Andrew Hamilton in his Account very *largely* confirms the foregoing.

Note. Hitherto the Commiſſioners have met only *ſix* ſeveral Days, *viz.* at *Newtown* on 6th and 7th *October*, and at *Newcaſtle* on 30th, 31ſt *October*, and 1ſt and 2d *November*.——It may not be amiſs to recapitulate the ſeveral Steps taken by Governor *Ogle*; 1ſt, Objected to our Commiſſion, tho' granted according to the Agreement with my Lord. 2d, Refuſed to admit Clerks on the 7th *October*. 3d, Would not exchange the Minute while our Witneſſes Mr. *French* and Mr. *James Hamilton* were preſent. 4th, Refuſed to let a Commiſſioner on each ſide ſign a Minute. 5th, In the proper Time for running the Lines, and that Seaſon was expiring, propoſed and inſiſted on an Adjournment from 7 to 30 *October*. 6th, Stopt the Work, and inſiſted to ſee the Charter and Feoffments. 7th, Wanted Copies of thoſe Deeds after he had himſelf examin'd them. 8th, Would have thoſe Copies *ſigned* by our Commiſſioners. 9th, Would not proceed then, they muſt take Time to conſider. 10th, He had no Power to find the Center. 11th, Refuſed to let the Town be ſurvey'd, to find the Center of it, there was *no Occaſion* he ſaid. 12th, Refuſed our Offer to give him a Center *in* the Town, tho' we took leſs than one third, and gave him more than two thirds of the Benefit of the Town, and would have given him almoſt *any* Place. 13th, Propoſes and inſiſts on a three Months Adjournment, becauſe my Lord was daily expected in *Maryland*. 14th, Again refuſed that *full* Minutes ſhould be taken. 15th, When his *falſe* Minutes were objected to, and in effect own'd by himſelf to be falſe, never amended them.

All this during, indeed, *only four* Days meetings, for the *firſt* Day, they did nothing at all, and the *ſixth* Day, they *only* adjourned.

Samuel Preſton, [*Lib.* B. *Fol.* 312. *Int.* 77. *Fol.* 382.] Has heard and believes that Lord *Baltimore* arrived in *Maryland* in *November* 1732, and continued in *America* till *June* or *July* following.

James Logan, [*Lib.* B. *Fol.* 76. *Int.* 77. *Fol.* 191.] He was informed and believes Lord *Baltimore* arrived in *Maryland* in a *ſhort Time* after the ſaid 2d of *November* 1732, and as he thinks *before the End* of that Month; and for a *Reaſon* of his belief, ſays that Governor *Gordon* about latter end of *November*, or beginning of *December*, received a Letter from the Defendant dated *in Maryland*, which Letter the Affirmant *ſaw*, and it appeared to be wrote by, or by Order of the Defendant, and to be ſigned by him.——And the Defendant as he was informed and believes, ſailed from *Maryland*, on his Return from *Maryland*, ſome time in or about *July* following.

My Lord in his own Anſwer, admits he arrived in *New-England* in *September*, and in *Maryland* 14 *November* 1732.

Samuel Preſton, [*Lib.* B. *Fol.* 312. *Int.* 78. *Fol.* 382.] Says that *Samuel Ogle* and *Calvert*, *Howard*, *Ward*, *Taſker* and *Jennings* (who appeared by Vertue of a *new* Commiſſion) the Defendant's Commiſſioners, and Mr. *Norris*, this Affirmant, and Meſſrs *Hamilton*, *Steel* and *Charles*, as the Plaintiffs Commiſſioners, met, at *Newcaſtle*, on 1 *February* 1732, on which Day no Buſineſs was done by the Commiſſioners, but they adjourned to next Day, at the Court-Houſe in ſaid Town.

* *James Steel*, [*Lib.* C. *Fol.* 559. *Int.* 78. *Fol.* 597.] confirms the ſame.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 79. *Fol.* 383.] Says, that the ſaid Commiſſioners met, at the Court-Houſe at *Newcaſtle*, on 2d *February*; when the Plaintiffs Commiſſioners aſked the Defendant's Commiſſioners, whether Lord *Baltimore had given them* any Directions concerning finding a *Center* for the Circle? They anſwered that *he had not*; for that he having entered into an Agreement, and delegated *his Power* to his Commiſſioners, *he left* the ſame *entirely* to them, and *would not interfere*. And the Affirmant *believes* the Defendants Commiſſioners did *then* ſay, *they* had not *ſufficient Power* to fix the ſaid Center, as *they had formerly ſaid*, and that it was *waved*. ——Thereupon the Defendant's Commiſſioners ſaid, Let us ſee *whether* we *can agree* upon *the Circle?* And *then* inſiſted that, by the Circle in the Articles mentioned, *was intended* a Circle of 12 Miles *Circumference only*. To which the Plaintiffs Commiſſioners replied, that they had *nothing* to do but to follow the *Directions* of the ſaid *Articles* and their *Commiſſions: By which* it appeared that the ſaid Circle was to be drawn at 12 *Engliſh* Statute Miles *diſtance* from *the Town* of *Newcaſtle*, and which *they* underſtood, was a Circle of 12 Miles *Radius*.——And the Plaintiffs Commiſſioners did *inſiſt* that the Defendant's Commiſſioners ſhould declare, whether they thought they had *full Power* to execute the ſaid Agreement, or not? But does not remember what *particular* Anſwer they gave to it.——But the Defendant's Commiſſioners did ſhew a Readineſs to run out *ſuch a Circle* as *they* had ſaid was *intended* by the ſaid Articles, *but* did not think *they* had *ſufficient Power*, by *their* Commiſſion and the ſaid Articles, to run the ſaid Circle at 12 Miles *Diſtance from the Town*.

Andrew

rew Hamilton in his Depoſition ſpeaks *largely* hereto.

uel Preſton, [*Lib.* B. *Fol.* 312. *Int.* 80. *Fol.* 387.] That the ſaid Commiſſioners met, again, that Afternoon, and as well as he remembers it was propoſed by the Defendant's Commiſſioners, ſeeing the Commiſſioners on each ſide could not agree concerning the Dimenſions of the *Circle*, that they ſhould conſult *Mathematicians* thereon.——Whereupon the Plaintiffs Commiſſioners, *altho'* they thought they had not Power to depart from the *Words* of the Articles, upon the Opinions of *any* Mathematicians *whatſoever*, yet, *conſidering* they *could not procure joint* Minutes of their Proceedings to be taken, *in order to get ſome Evidence* concerning thoſe Proceedings, they *conſented* to *conſult Mathematicians*, as the Defendant's Commiſſioners required. That then, the Plaintiffs Commiſſioners inſiſted that the *Queſtion*, to be propoſed to the *Mathematicians*, ſhould be reduced *to Writing*; which after ſome Heſitation, was conſented to, and a ſhort Queſtion was accordingly wrote by one of the Defendant's Commiſſioners.——That then the Commiſſioners agreed to *adjourn* till *next* Morning, and *ſome* of the Commiſſioners then defired the Adjournment might be till *eleven*, and *others* defired it might be till *ten* o'clock, but the Affirmant *cannot* tell which of the *Hours* was *agreed to*. But ſays, the *uſual* Hour of adjourning to *before* that time, had been *generally*, ten of the Clock; altho' upon an Adjournment to *that* Hour, *the Day before*, the *Defendant's* Commiſſioners had *not attended* till 11 o'Clock. And ſays, that the *Plaintiffs* Commiſſioners at thoſe Meetings at *Newcaſtle*, had *many times* required of the Defendant's Commiſſioners to admit *Clerks*, to take *Minutes* of all their Proceedings, but the ſaid Defendant's Commiſſioners *always refuſed* to conſent thereto, and *therefore*, no Clerks were appointed to attend the ſaid Commiſſioners, or to take down the ſaid Minutes.

James Steel [*Lib.* C. *Fol.* 559. *Int.* 80. Fol. 598.] Says *poſitively* that, at *this* Meeting the Defendant's Commiſſioners again *alledged* that, as the Articles did not ſufficiently fix the *Center*, *they* had *not* ſufficient *Power*, by *their* Commiſſion to fix the ſaid Center. Then he gives the *like* Account as Mr. *Preſton*.——And adds that at *this* Meeting, as well as at *many* others *before*, it was inſiſted upon and required, by the Plaintiffs Commiſſioners, that Clerks ſhould be admitted, to take joint *Minutes*, of the *whole* Proceedings and Actings, which was *always*, *hitherto*, and at *this* Time *alſo*, denied and refuſed by the *Defendant's* Commiſſioners.——They *always* alledging that the ſame was *needleſs and unneceſſary*. He remembers nothing *more* that paſt at this Meeting, but that the Commiſſioners adjourn'd till next Morning, *ſome* of them ſaying till *ten*, others *eleven* o'Clock.

Andrew Hamilton ſpeaks *largely* to the foregoing.

Samuel Preſton. [*Lib.* B. *Fol.* 312. *Int.* 81. *Fol.* 392.] Saith that *Iſaac Norris*, this Affirmant *Preſton* and *James Steel*, Commiſſioners for the Plaintiffs, and alſo, a *Quorum* of the Defendant's Commiſſioners, *met* at the Court-Houſe, *about eleven o'Clock* in the Forenoon of 3 *February* 1732, purſuant to their laſt Adjournment; but Meſſrs *Hamilton* and *Charles*, two *others* of the Plaintiffs Commiſſioners then at *Newcaſtle*, were not *then* come into the Room.——And Governor *Ogle*, *immediately*, propoſing that, as there was then a *Quorum* of the Commiſſioners on each ſide preſent, they ſhould *proceed* to Buſineſs; to which the Plaintiffs Commiſſioners then preſent anſwer'd, that there were ſome *others* of the Plaintiffs Commiſſioners that they expected would be there *inſtantly*, and *juſt then*, the ſaid *James Steel*, happening to be called out of the Room, and Governor *Ogle* obſerving it, ſaid to the *Penſilvania* Commiſſioners, Getlemen, I obſerved, juſt now, you *were* a *Quorum*, but now here are *not* enough to go upon Buſineſs. Whereupon, the ſaid *Iſaac Norris* ſtept out of the Room to ſend away the ſaid *James Steel* (as the ſaid *Iſaac Norris* at his Return, told this Affirmant) to haſten the ſaid *Andrew Hamilton* and *Robert Charles*; which the ſaid Governor *Ogle*, *likewiſe obſerving*, ſaid, to the Affirmant, Now, here is another of your Commiſſioners gone, and ſeemed to be much diſpleaſed at the Plaintiffs Commiſſioners for making him wait ſo long, and Governor *Ogle*, ſome ſhort time after, looking upon his Watch, ſaid, it was *paſt twelve o'Clock*, and that as there was not *then* a *Quorum* of the Plaintiffs Commiſſioners there to proceed upon the Buſineſs, he would ſtay *no longer*, and went away out of the Room, and the reſt of the *Maryland* Commiſſioners *ſoon after* followed him; and ſaith that, when Governor *Ogle* looked at his Watch, and ſaid it was *paſt twelve o'Clock*, as above mentioned, the Affirmant, *at the ſame time*, look'd upon *his* Watch, and *very well remembers*, that it *then* wanted *near half an Hour of* 12 *o' Clock*, and that he *told* the ſaid Governor *Ogle* ſo; but the ſaid Governor *Ogle* then told this Affirmant, *that his Watch was too ſlow*, tho' this Affirmant *is ſatisfied his Wateh was pretty right*, he having, that Morning, *ſet it by a good Clock*. And ſaith, that, *juſt* as the ſaid Governor *Ogle went out of the Room*, the ſaid *Iſaac Norris* (having ſtaid out *but a few Minutes*) returned. And ſaith that thoſe of the Plaintiffs Commiſſioners who were at *Newcaſtle* on the ſaid 3d of *February*, and *did not* attend the Meeting of the Commiſſioners that Forenoon, did not, (as he is well aſſured) *wilfully* abſent themſelves, with Intention not to meet; *for that they were*, *all that Forenoon*, and likewiſe ſome part of the *Night before*, imployed, in *preparing a Writing* which they thought neceſſary to be *read and delivered* to the *Maryland* Commiſſioners at *that Meeting*. And ſaith, that *immediately* after the *Maryland* Commiſſioners had ſo left the Room, and the ſaid *Iſaac Norris* and the Affirmant were alſo going away from thence, (to the beſt of the Affirmant's Remembrance) they met the ſaid *James Steel* and ſome other of the ſaid *Penſilvania* Commiſſioners, who had been abſent as aforeſaid, *coming up* to the ſaid Room, in *order to attend* the ſaid Meeting of the Commiſſioners; which the Affirmant believes was *not above a quarter of an Hour* after the ſaid *James Steel*, had ſo left the ſaid Room, to fetch the ſaid *Penſilvania* Commiſſioners as afore ſet forth. And farther ſaith that, upon the ſaid *James Steel* and *Iſaac Norris* going out of the Room, and Governor *Ogle*'s offering thereupon to break up the Meeting aforeſaid, the Affirmant *defired* the ſaid Governor *Ogle* not to be uneaſy, for that he the Affirmant believed the ſaid *James Steel* and *Iſaac Norris* were only gone out *to haſten* the ſaid other *Penſilvania* Commiſſioners, or to that Effect, and ſaith, that at the Meeting of the Commiſſioners *on the Day before* this Meeting, the *Penſilvania* Commiſſioners had waited for the *Maryland* Commiſſioners as *long after the Hour of Adjournment*, as they had waited *for them* the ſaid *Penſilvania* Commiſſioners at *this* Meeting. And verily believes, that the genuine *true* Reaſon why the ſaid *Maryland* Commiſſioners did ſo depart and break up the ſaid Meeting was, that they were not *deſirous*, *nor did intend*, to proceed upon putting in Execution, the Buſineſs they were directed to do by their Commiſſions, and the ſaid Articles of Agreement; for that in the Afternoon of the *ſaid* 3d of *February*, when this Affirmant and the ſaid *Iſaac Norris* went to the ſaid *Maryland* Commiſſioners to *deſire* them to *meet again*, Governor *Ogle* then complained that the ſaid *Penſilvania* Commiſſioners had been negligent in Meeting, and ſaid he apprehended it was done *with Deſign*; that, if the Caſe was his own, he would be very ready to oblige any Gentlemen, but as it was an Affair of the Lord *Baltimore*'s, and he conceived the Plaintiffs Commiſſioners *had given him an Advantage*, he ſhould not look upon it to be juſt to his Conſtituent, if he did not make uſe of it, or to that Effect.

James Steel, [*Lib.* C. *Fol.* 559. *Int.* 81. *Fol.* 601.] That a *Quorum* of the Commiſſioners for the Plaintiffs, *viz.* *Iſaac Norris*, *Samuel Preſton*, and this Affirmant; and alſo a *Quorum* of the Commiſſioners for the Defendant met, at the Court-Houſe, *between* 10 *and* 11 *of the Clock* in the Forenoon of the 3d of *February* 1732, but remembers that *Andrew Hamilton* and *Robert Charles*, two other of the Plaintiffs Commiſſioners, tho' then in the ſaid Town, were not preſent when the reſt of the ſaid Commiſſioners *firſt* met as aforeſaid, that Forenoon. And ſaith that the ſaid *Andrew Hamilton* and *Robert Charles*, did not *wilfully* ſtay away, or abſent themſelves, from that Meeting, *with Intention not to meet*, *they being*, *all that Morning*, *and the Forenoon*, *buſy and employed in drawing up and copying*, *a Paper*, *in anſwer to a Query the Defendant's Commiſſioners had given in to the Plaintiffs Commiſſioners at their Meeting the Day before*, and for other Purpoſes *therein compriſed*, which was thought neceſſary by the Plaintiffs Commiſſioners to be laid before the Defendant's Commiſſioners *at that Meeting*. That ſoon after the ſaid *Quorums* of the Commiſſioners met as aforeſaid, *and before they ſat down to Buſineſs*, a Meſſenger came into the Room from the ſaid *Andrew Hamilton* and *Robert Charles* to *this Affirmant*, deſiring him to bring them the *Articles* of Agreement between the Plaintiffs and the Defendant of the 10th of *May* 1732, which was *then*, and had *for* ſome time, *before*, *been*, in this Affirmant's Cuſtody, the ſame being *then wanted* by the ſaid *Andrew Hamilton* and *Robert Charles*, to *ſupply and fill up ſome Blanks* in the *ſaid Papers*, which they were preparing as aforeſaid. And thereupon the Affirmant (having *firſt acquainted* the reſt of the ſaid Commiſſioners then preſent *with the ſaid Meſſage*, and the *Reaſon of his going*) went out of the Room where the ſaid Commiſſioners were met. And the ſaid *Iſaac Norris* followed him to the Door, to deſire him to *haſten* the ſaid *Andrew Hamilton* and *Robert Charles* to the ſaid Meeting; and then the ſaid *Iſaac Norris immediately returned into the Room* to the reſt of the ſaid Commiſſioners. And this Affirmant proceeded, *with what ſpeed* he could, to the ſaid *Andrew Hamilton* and *Robert Charles*, and after ſtaying *about an Hour* with them, to *fill* up the *Blanks* and *compleat* the ſaid Paper, this Affirmant returned, *with the ſaid* Andrew Hamilton *and* Robert Charles, *in order to attend and go upon Buſineſs with* the reſt of the ſaid Commiſſioners at that Meeting; and being got up as far as the *Green*, near *the ſaid Court-Houſe*, they *there met* the ſaid *Iſaac Norris* and *Samuel Preſton*, coming out of the ſaid Court-Houſe, who, telling them, the *Maryland* Commiſſioners *were gone away* from the Court-Houſe, they were obliged to turn back, tho' it *was then but between* 11 *and* 12 *o'Clock*. And the Affirmant ſaith, that the Reaſon *alledged* by the Defendant's Commiſſioners for their breaking up the ſaid Meeting was, (as the Affirmant is informed) becauſe there was not a *ſufficient Quorum* of the Plaintiffs Commiſſioners to go *upon Buſineſs*, occaſioned by this Affirmant's going out of the Room upon the ſaid Meſſage, to the ſaid *Andrew Hamilton* and *Robert Charles* as aforeſaid. That the Affirmant *very well remembers* that the Plaintiffs Commiſſioners had, *the Day before*, waited for *the Defendant's Commiſſioners* after the Hour of *Adjournment*, full as *long* a Time, as this Affirmant was abſent from the ſaid Meeting in the Forenoon of the ſaid 3d of *February*, on the ſaid Meſſage to the ſaid *Hamilton* and *Charles* as before ſet forth. And ſaith that, as he this Affirmant conceives and believes, the *true and genuine Reaſon* why the ſaid *Maryland* Commiſſioners had ſo broke up and departed from the ſaid Meeting as aforeſaid was, becauſe they *imagined*, that thro' this Affirmant's Abſence on the ſaid Meſſage, and there not being a *Quorum* of the Plaintiffs Commiſſioners left, they *had got* ſuch an *Advantage*, as that they could *thereby avoid proceeding any farther* in the Execution of their Commiſſion and the ſaid Articles. And further ſaith that, after the ſaid Defendant's Commiſſioners ſo breaking up the ſaid Meeting, he this Affirmant was told, by the ſaid *Iſaac Norris* and *Samuel Preſton*, that *they had continued* with the ſaid *Maryland* Commiſſioners during the Affirmant's Abſence on the Meſſage aforeſaid, and had *entreated and very much preſſed* the ſaid *Maryland* Commiſſioners to ſtay, and *not depart* from the ſaid Meeting, for that he the ſaid Affirmant, and the reſt of the Plaintiffs ſaid Commiſſioners *would ſoon be there*, or to that Effect.

Andrew Hamilton, in his Account, ſpeaks *largely* to ſome of the foregoing Matters.

amuel Preſton, [*Lib.* B. *Fol.* 312. *Int.* 119. *Fol.* 448.] That in his Opinion the *Spring and Fall* are the *propereſt Seaſons* for running out Lines in the Woods, when ſuch Running is to be continued for Weeks or Months at a Time.——Has not been converſant with ſurveying in the Woods, and therefore can't ſay *how long* Time it would require to run and mark out the Circle and Lines mentioned in the Articles; but verily *believes* there was *ſufficient Time* to do the ſame, between the firſt Meeting of the Commiſſioners, and the 25 of *December* 1733.——That, when the Commiſſioners on both ſides met on 1ſt, 2d, 3d *February* 1732, at *Newcaſtle*, in order to carry the ſaid Articles into Execution, it was *very cold and ſevere Weather*. And in this Affirmant's Opinion, the *Abſence* of the Commiſſioners, on *either ſide*, for an *Hour or two* on ſaid 3d of *February*, *could not* be ſuch a Hindrance, as *to prevent* the *Execution* of the Articles, within the Time limited by the ſame.

James Steel, [*Lib.* C. *Fol.* 559. *Int.* 119. *Fol.* 576.] He alſo ſays the *Spring* and *Fall* are the propereſt Seaſons, when the Work is to continue for a length of Time, and believes that, to run and mark out the Circle, and the ſeveral Lines agreed on by the Articles, would at leaſt require *three Months*.——He ſays that on 1ſt, 2d, and 3d *February* 1732, it was *extreme cold and ſevere Weather*, *and the Creeks being frozen over*, *and the Ground covered with Snow*, and that the Abſence, or *Non-Attendance*, of the Commiſſioners, on *either* ſide, for *an Hour or two* beyond the Hour of the Adjournment, on *any of thoſe Days*, *could not*, in his Judgment, be ſuch a Prejudice or Hindrance to the Execution of the Articles, as that the ſaid Circle and Lines could not, by reaſon of *ſuch* Abſence or Non-attendance, be run, markt or laid out, within the Time limited by the Articles.

njamin Tasker, the Defendant's Commiſſioner and Witneſs, but croſs examined [*Lib.* E. *fol.* 49. *Int.* 19. *fol.* 70] is but little acquainted with, and can't well judge, what are the *fitteſt Seaſons* to run and mark Lines in the Woods, but believes the Month of *October* is the propereſt Seaſon for that Work——That the running and marking the Circle and Lines, purſuant to the Articles, would, in his Judgment, have taken *near* 3 *Months*——That at the Meetings of the Commiſſioners at *Newcaſtle* on 1ſt, 2d, 3d *February*, the Weather was *very unpleaſant*, there being then a *great Snow* upon the Ground, and *a Thaw* upon that——That the Non-attendance, or *Abſence* of the Commiſſioners *on either ſide*, for an *Hour or two* beyond the Time of Adjournment, could not make any Difference, or *prevent* the running the Lines within the Time for that purpoſe limited in the Agreement.

Note, Why then, did they, *ſo often*, refuſe our *repeated Requeſts* to proceed?

ames Steel [*Lib.* C. *fol.* 559. *Int.* 82. *fol.* 610] That *very ſoon* after breaking up of the Defendant's Commiſſioners as aforeſaid, the Plaintiffs Commiſſioners ſent a *verbal Meſſage* by *Robert Charles* one of the Plaintiffs Commiſſioners, who was accompanied by *John Georges deceaſed*, to the Defendant's Commiſſioners, acquainting them, that ſome Buſineſs might be done before *Dinner was ready*, and therefore they *deſired* them to meet the Plaintiffs Commiſſioners, *immediately*, in the ſaid Court Houſe, to *proceed* in the ſaid Buſineſs; That in a ſhort time after, the ſaid *Robert Charles* and *Georges* returned, and the ſaid *Charles* ſaid he had acquainted Mr. *Ogle* and *ſome others* of the Defendant's Commiſſioners, with the ſaid Meſſage, and that Mr. *Ogle* had *refuſed to meet* the Plaintiffs Commiſſioners, alledging for Reaſon, that if any *Advantage* had accrued to Lord *Baltimore*, by the Failure of the Plaintiffs Commiſſioners that Morning, he could not anſwer it to his Lordſhip to give it up.

w Hamilton ſpeaks to this *firſt verbal Meſſage*.

Georges's Depoſition *ſigned* by him, he being proved *dead*, you have among the *Written* Evidence.

l Preſton [*Lib.* B. *fol.* 312. *Int.* 83. *fol.* 408] } Say that, after *the Return* of *Robert Charles*, all the Plaintiffs Commiſſioners, except Mr. *Hamilton* who was indiſpoſed, and all the Defendant's

es Steel [*Lib.* C. *fol.* 559. *Int.* 83. *fol.* 612] } Commiſſioners, *dined together*, at *Newcaſtle*, in a friendly manner, that 3d of *February*.

l Preſton [*Lib.* B. *fol.* 312. *Int.* 82. *fol.* 403. and *Int.* 84. *fol.* 409] Says that on the *ſame* Day, in the Afternoon, about 4 o' Clock, Mr. *Norris* and the Affirmant wai ed on *three* of the Defendant's Commiſſioners, of which *Ogle* and *Jennings* were two, at their Lodgings in the Town, and informed them, that what had happened in the Morning, was occaſioned by the Indiſpoſition of one of the Plaintiffs Commiſſioners with the Gout, and other Accidents, and *not* with any deſign to avoid the Execution of the Commiſſion, and therefore *requeſted* them to meet the Plaintiffs Commiſſioners, *immediately*, or that Afternoon, to *proceed* in the Execution of the Commiſſion: To which *Ogle* anſwered, that the Plaintiffs Commiſſioners had been *negligent* in not meeting, and he apprehended it was done with *Deſign*; That, if the Caſe was his own, he ſhould be very glad to oblige any Gentleman, but as it was an Affair of Lord *Baltimore*'s, and he conceived the Plaintiffs Commiſſioners had *given him an Advantage*, he ſhould not look upon it to be juſt to his Conſtituent, if he did not make the Uſe of it, or to that effect.——Upon this *ſome* of the *Penſilvania* Commiſſioners, of which Mr. *Hamilton* was one, *came* into the Room, and then *Jennings* took up his Hat and *walkt out of the Room*——[Very artfully done! For, *otherwiſe*, there would *then* have been a Quorum on *each* Side] Then Mr. *Hamilton* ſaid, Gentlemen, We have done no Buſineſs, this Morning. I have been at the Place of Meeting, and expected to ſee you there, ſhall we go *now* about the Buſineſs? To which

Mr.

Mr. *Ogle* replied, the Plaintiffs Commiſſioners had been negligent, and therefore the *Defendant's Commiſſioners did not intend to meet them again.* To this Mr. *Hamilton* ſaid, that the Plaintiffs Commiſſioners had waited for the Defendant's Commiſſioners, *the Day before*, as long a time as they had waited for them on that; and yet, had not *offered* to take any Advantage, and therefore did not think it was *fair* for the *Maryland* Commiſſioners to attempt to take this Advantage now. And thereupon Mr. *Hamilton delivered a Paper-Writing* to Mr. *Ogle*, *which had been prepared to be delivered* to the Defendant's Commiſſioners in the Morning; upon which Paper, when *Ogle* had ſlightly lookt, he ſaid here take your Paper, I have nothing to do with it——To which Mr. *Hamilton* replied, Sir, It's yours, you have it; and thereupon, *Ogle* flung the ſaid Paper down in a Chair or Window, and the Plaintiffs Commiſſioners departed——And ſays that that Paper contained *Reaſons*, given by the Plaintiffs Commiſſioners, why the Circle ſhould be extended to the Diſtance of 12 Miles *from the Town*, and a Declaration of the Willingneſs of the Plaintiffs Commiſſioners to proceed in doing *the ſame*, and a *peremptory Demand* of the Defendant's Commiſſioners, whether they would join therein? And that Paper was ſigned by Meſſieurs *Norris*, *Hamilton*, *Steel*, *Charles*, and this Affirmant *Preſton*.

* *James Steel* [*Lib.* C. *fol.* 559. *Int.* 84. *fol.* 612] Confirms the laſt foregoing Account, and adds, that when *Ogle* would have returned the Paper, he ſaid *they could do nothing*, there not being a *Quorum* of the *Defendant's Commiſſioners preſent*——And ſays that when *Hamilton* offered the Paper to *Ogle*, *Jennings* took up his Hat, and walkt out of the Room, which this Witneſs verily *believes* was done to avoid a *Quorum* of the *Defendant's* Commiſſioners being preſent, leſt this ſhould be conſtrued a *Meeting* of the Commiſſioners——He alſo confirms Mr. *Preſton* throughout——And adds, moreover, that Mr. *Hamilton requeſted Ogle* and *Calvert* to *appoint any* Place for the *immediate* Meeting of the Commiſſioners on both ſides, and the Plaintiffs Commiſſioners would meet them according to *ſuch* Appointment; but that *Ogle* replied, he could not conſent to any *other* Meeting, becauſe it would wave the *Advantage* he conceived Lord *Baltimore* had gained——That, thereupon, Mr. *Hamilton* offered to *Ogle* and *Calvert* a *Written Notice* ſigned by the Plaintiffs Commiſſioners, and directed to all the Defendant's Commiſſioners, *requiring* them to *meet* the Plaintiffs Commiſſioners at 6 o'Clock *that Evening*, at the ſaid Court Houſe; which Notice *Ogle* and *Calvert* refuſing to receive, *Hamilton* laid it down, on the Table or Chair, before them, and then the Plaintiffs Commiſſioners departed——And ſays, that very ſoon afterwards he was informed and believes, that the reſt of the Defendant's Commiſſioners were acquainted with the ſaid Service of the ſaid Notice, and were required to attend according to the Purport of the ſame Notice.

Andrew Hamilton confirms all this, after Dinner, on the 3d of *February*.

Benjamin Tasker the Defendant's Witneſs and Commiſſioner croſs examined. [*Lib.* E. *fol.* 49. *Int.* 30. *fol.* 68] That after the Commiſſioners of *Maryland* parted from *two* of the *Penſilvania* Commiſſioners, *between* the Hours of *Twelve* and *One*, on 3d *February* 1732, at the Court-Houſe in *Newcaſtle*, *this Deponent*, and as he heard, the reſt of the *Maryland* Commiſſioners then at *Newcaſtle*, *were* in the *Evening* of that *ſame Day requeſted* by the *Penſilvania* Commiſſioners, to *meet again*, in order to proceed on the Buſineſs of running the Lines according to the Articles of Agreement.

Benjamin Eaſtburn [*Lib.* C. *fol.* 678. *Int.* 84. *fol.* 711] Says that on 3d *February* 1732, *"about Three in the Afternoon*, he heard *Robert Charles*, one of the Plaintiffs Commiſſioners *read a written Paper* to *Ogle* and *Calvert*, two of the Defendant's Commiſſioners, purporting to be a *Notice* from the Plaintiffs Commiſſioners to the Defendant's Commiſſioners, to meet the Plaintiffs Commiſſioners, *that Evening*, at 6 o' Clock, at the Court Houſe. That *after reading* the ſaid Paper, the ſaid *Charles offered* to deliver the ſame to the ſaid *Ogle*, which the ſaid *Ogle* refuſing to receive, the ſaid *Charles* laid the ſame down on a Chair——*This* Deponent does not know by whom the ſaid Paper was ſigned——And *very ſoon* after, this Witneſs heard *Charles* give verbal Notice to *Ward*, *Howard*, *Tasker* and *Jennings*, four of the Defendant's Commiſſioners, to meet the Plaintiffs Commiſſioners that Evening at Six o'Clock in the ſaid Court-Houſe; To which ſome of them replied, *It's very well*, *Gentlemen*, or to that effect——That the *Plaintiffs* Commiſſioners afterwards did meet, in the ſaid Court-Houſe, at the appointed Hour, and there continued *two or three Hours*, but the Defendant's Commiſſioners or any of them did *not appear* there.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 85. *fol.* 411] Says that four of the Plaintiffs Commiſſioners on the ſaid 3d of *February ſigned* Notices to *Ogle*, *Calvert*, *Howard*, *Ward*, *Tasker*, and to the beſt of his Memory, *Jennings*, the Defendant's Commiſſioners then in *Newcaſtle*, requiring them to meet the Plaintiffs Commiſſioners at the Court Houſe at 6 that Evening; which Notices he believes were delivered to three or more of the Defendant's Commiſſioners——He alſo ſays that the Plaintiffs Commiſſioners met at the Court Houſe, at the ſaid appointed Hour, and there attended till about 8; but the Defendant's Commiſſioners, or any of them, did *not appear*, or, to his Knowledge, ſend any Meſſage——He is not certain at what Hour the Notices were ſaid to be delivered, but ſays it was ſome time before Six——And adds, that the Defendant's Commiſſioners continued in *Newcaſtle* from the time of ſerving the ſaid Notices until the 4*th* Day of the ſaid Month.

* *James Steel* [*Lib.* C. *fol.* 559. *Int.* 85 *fol.* 620] Says that the Plaintiffs Commiſſioners met at Six as aforeſaid, and attended till 8, and the Defendant's Commiſſioners, though then in the Town, neither came or ſent——That the ſaid 3d of *February* happened on a *Saturday*——And he adds——That, *after* the Plaintiffs Commiſſioners returned from the ſaid Court-Houſe at *Eight* o'Clock the ſaid Evening, they thinking it proper and neceſſary to ſign and ſerve the Defendant's Commiſſioners, who were then ſtill in the Town, with *freſh Notices*, to meet them on the *Monday* following, at 10 in the Forenoon, at the ſaid Court-Houſe, ſent *Robert Charles* and Mr. *Georges*, *in order to ſerve ſuch* Notices upon all the Defendant's ſaid Commiſſioners; but *Ogle refuſing to be ſeen* by *Charles* (as he upon his Return to the Plaintiffs Commiſſioners informed them) they, thereupon, ſent a Perſon *again*, that ſame Evening, to ſerve the ſaid *new Notices* upon the reſt of the ſaid *Maryland* Commiſſioners; and which were accordingly that ſame Evening *perſonally ſerved* upon the ſaid *Charles*, *Calvert*, *Jennings* and *Tasker* (as the ſaid Perſon upon his Return acquainted this Affirmant and the reſt of the Plaintiffs Commiſſioners) and that the ſaid *Howard* had alſo a Copy of the ſame Notice left for him, at his Lodgings, and which afterwards came to his Hand that ſame Evening, as this Affirmant believes, and was informed.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 86. *fol.* 413] He confirms what is ſaid by Mr. *Steel*, rather more poſitively, as to the ſigning and ſerving that new Notice, for *Monday* the 5th of *February*.

John Georges ſigned Depoſition (he being dead) amongſt the written Evidence, ſpeaks to this Notice.

Andrew Hamilton in his Account alſo ſpeaks *largely* hereof.

Benjamin Tasker the Defendant's Witneſs and Commiſſioner croſs examined [*Lib.* E. *fol.* 49. *Int.* 31. *fol.* 69] Says that *this Deponent*, and as he believes, the reſt of the *Maryland* Commiſſioners, were on the ſaid 3*d Day* of *February*, ſerved with a Notice *in Writing* to meet the *Penſilvania* Commiſſioners for the Purpoſes aforeſaid, on the then *Monday* following. And ſays that *he* did not *avoid* being *ſerved* with ſuch *Notice*, nor did any of the reſt of the *Maryland* Commiſſioners, to his *Knowledge*, endeavour to *avoid* being *ſerved* with ſuch Notice.

Did they attend *according* to the Notice?

That our Depoſitions will immediately anſwer.

Gideon Griffith [*Lib.* B. *fol.* 279. *Int.* 118. *fol.* 280] Has heard that there were Articles of Agreement between the Parties, and has ſeen and read a printed Paper, which he was informed was a Copy thereof, and has heard that ſuch and ſuch Perſons were appointed Commiſſioners on each ſide reſpectively, for executing the ſaid Agreement——And ſays that Meſſieurs *Norris*, *Hamilton*, *Charles*, *Steel*, and another Perſon, whoſe Name he does not remember, as Commiſſioners on the Part of the Plaintiffs, met the ſaid *Ward*, *Tasker*, and ſome others, whoſe Names he can't remember, at the Court Houſe in *Newcaſtle* on 1ſt or 2d of *February* 1732, in order to carry the ſaid Agreement into Execution, as he heard; but knows not whether they proceeded in the Execution of the ſame, or not, And ſays he has *neither heard or believes* that the *Penſilvania* Commiſſioners when at *Newcaſtle* in the ſaid Month of *February*, ever did *refuſe to meet* the Defendant's Commiſſioners at the uſual Place of Meeting in the ſaid Town, to proceed in the Execution of the ſaid Agreement, but has *heard* that the Defendant's Commiſſioners did then and there *refuſe to meet* the Plaintiffs Commiſſioners, becauſe the ſaid *Steel* one of the Plaintiffs Commiſſioners had neglected to meet at the Time or Hour appointed for Meeting, as he had heard——[*Fol.* 285] That *afterwards*, on 3d *February* 1732, this *Deponent offered to deliver* three ſeveral *Notices in Writing*, ſigned by the ſaid Plaintiffs Commiſſioners, to *Jennings*, *Tasker* and one other (who he thinks was *Michael Howard*) Commiſſioners on the Defendant's Part, purporting, that as the *Maryland* Commiſſioners had refuſed meeting the *Penſilvania* Commiſſioners according to a *former* Notice given, the Plaintiffs Commiſſioners were willing to meet them on *Monday* the 5th of that Inſtant *November*, at 10 in the Forenoon, to proceed to the Execution of their reſpective Commiſſions, *which Notices* the ſaid *Jennings*, *Tasker*, and the ſaid other Perſon *refuſed to receive*, ſaying they *would not receive* any Papers from the *Penſilvania* Commiſſioners——That the Deponent then acquainted the ſaid *Jennings*, &c. that the *Penſilvania* Commiſſioners had deſired him to acquaint them, that they would meet them at *another* time, in order to proceed to Buſineſs, or to that effect, and thereupon left the ſaid three written Notices, on a Table, in the ſame Room with the ſaid *Jennings*, *Tasker*, and the ſaid other Commiſſioner, whereon the ſaid *Jennings* was then writing. And ſays that, next Morning, being *Sunday* 4th *February* aforeſaid, the Defendant's Commiſſioners went out of *Newcaſtle*, and did not meet the Plaintiffs Commiſſioners on the ſaid 5th of *February*, but the *Penſilvania* Commiſſioners did attend at the ſame Town, on that day, according to the Notice aforeſaid.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 87. *fol.* 415] Says that 4 or 5 of the Plaintiffs Commiſſioners met at the Court-Houſe on the ſaid 5th of *February* purſuant to the ſaid Appointment, but *none* of the Defendant's Commiſſioners attended, *they* having left the Town the day before, as the Affirmant underſtood and believes.

* *James Steel* [*Lib.* C. *fol.* 559. *Int.* 87. *fol.* 623] Confirms Mr. *Preſton*, with this Addition, that the Plaintiffs Commiſſioners when they ſo met, ſtaid till 12 at Noon.

You will pleaſe to remember, that we in our Bill *fol.* 304. particularly charge, that upon 15th *February* 1732, after the *Maryland* Commiſſioners had run away from *Newcaſtle* and refuſed to meet our Commiſſioners, though ſo *many* times required, both by *verbal* and by *written* Notices, my Lord himſelf writ a Letter to Governor *Gordon*, one of our Commiſſioners (who is proved to be ſince *dead*) reviving the Meetings, and appointing, by his own Act and Deed, that we ſhould run away to *Joppa* (in order to fix a Center ſomewhere in *Newcaſtle* Town, and appointing that new Meeting for the 7th of *May*——Mr. *Gordon* being proved to be dead, we could not get *that Letter* to prove, but my Lord himſelf in his Anſwer *fol.* 316. preciſely and ſufficiently admits his writing and ſending that Letter.

We were *then* to ſuppoſe that he really *intended* the Commiſſioners ſhould meet again to *execute* the Articles.

But you'll pleaſe to remember the Copy of the *written Letter* from Governor *Ogle* of the 8th of *March* markt N° 2. and the Copy of the *printed Advertiſement* of the 21ſt of *March* 1732, markt N° 1. (both *pending* that Appointment of my Lord's) which are mentioned, according to their Dates, in the State of our *written Evidence*.

Now we come to apply our Proofs *to them*, and to bring them home to my Lord *Baltimore* himſelf, and to ſhew what a Part he acted while he *himſelf* had revived the Meetings.

Hugh Jones of *Maryland* Clerk, my Lord's own Witneſs, croſs-examined [*Lib.* E. *fol.* 5. *Int.* 12. *fol* 7] Is *uncertain* whether he has ſeen any *written* Advertiſement of the ſame Tenor or Date of the *printed* Exhibit markt N° 1. but has ſeen a *printed* Advertiſement of the *ſame* Tenor and Date therewith. That he ſaw it in the Year 1732, when my Lord *Baltimore* was in *Maryland*; That he *received* it from Lord *Baltimore*, or from *William Parks*, then a Printer at *Annapolis*, but is uncertain from which of them.

The Same [*Int.* 13. *fol.* 8] To the beſt of his Remembrance, he *did ſend one* or *more* Advertiſements of the Tenor and Date of *that produced*, *to be ſet up upon the Borders of the three lower Counties*; and that he ſent *them*, *at the Requeſt of Lord* Baltimore, with *Intent* to notify to *any* People who held Lands within the Province of *Maryland* [He tells us by and by, that he thinks the lower Counties, and even *Philadelphia* itſelf, is *in Maryland*] under *any other* than the Proprietor of *Maryland*, that *they* ſhould apply *in Time* to *Matthew Tilghman Ward*, the *Agent* of the ſame Proprietor.

The Same [*Int.* 14. *fol.* 9] That by the Words (the Right Honourable the Lord Proprietor) in the ſaid Exhibit N° 1. *The Lord Baltimore was meant*. And apprehends that the *Perſons* deſcribed in the ſaid Exhibit by the Words (*pretending* to hold Lands by vertue of *any* Patents or Grants *not* deriving the *ſame* from the *preſent* Proprietor or his Anceſtors) *were meant ſuch* as held Lands by Grants from the *Duke of York*, or the *Proprietors of Penſilvania*, or by Purchaſes from the *Indians*, which had been taken up under *Maryland* Rights before.

Note, *Benjamin Tasker* [*Lib.* E. *fol.* 49 *Int.* 14. *fol.* 53] Says that by the Words *Lord Proprietor* in the ſaid Exhibit, was intended the Defendant in this Cauſe.

The Same [*Int.* 15. *fol.* 10] That he knows there is *an Officer* in *Maryland*, called and known by the Name of the Lord Proprietor's Agent, whoſe Buſineſs *he* is not acquainted with, either in reſpect to Lord *Baltimore*, or others.

The Same [*Int.* 16. *fol.* 11] That he apprehends that *Matthew Tilghman Ward*, *was Agent* to Lord *Baltimore* on 8th *March* 1732, and ſuppoſes that *John Roſs* was at that time Deputy to the ſaid Agent.

The Same [*Int.* 32. *fol.* 11] That Lord *Baltimore* did arrive in *Maryland*, from *Great Britain*, as he believes in the latter End of the Year 1732, and reſided chiefly at *Annapolis* while he ſtaid in the ſame Province, but does not remember when he departed from the ſaid Province on his Voyage to *Great Britain*.

The Same [*Int.* 33. *fol.* 12] That *Samuel Ogle* is generally reputed to be Governor of *Maryland* under Lord *Baltimore*, and was eſteemed *as Governor* about 7 Months *before* Lord *Baltimore*'s Arrival in *Maryland*, and *from* the Time of Lord *Baltimore*'s Departure from the Province *to this Time*. And that the ſaid *Samuel Ogle* reſided principally at *Annapolis* in the Years 1731, 1732 and 1733, and ever ſince, to this Time, except Part of a *Summer* in *Baltimore* County.

The Same [*Int.* 34. *fol.* 13] That he *knows* the Lord *Baltimore* and *Samuel Ogle* both lived in *Annapolis* a *Part* of the Time that Lord *Baltimore* was in *Maryland*, and *believes* that they principally reſided there, during *all* that time.

The laſt Matter is confirmed by *Benjamin Tasker* [*Lib.* E. *fol.* 49. *Int.* 34. *fol.* 72.]

The Same [*Int.* 35. *fol.* 14] That he is acquainted with *Governor Ogle*'s *Hand-Writing*, and has received ſeveral Letters from him, particularly *one* dated, as he believes, about 8th *March* 1732——*Which* Letter, or a *true Copy* of it, *he ſent* either to Mr. *Loyd*, or Mr. *Vanbebber*, *to ſhew* to ſome of their Friends *in Newcaſtle County*. That *ſuch ſending* the ſaid Letter, or a Copy thereof, *was*, as he remembers, *at the Inſtance* of the ſaid *Governor Ogle*, *with Intent* to be ſhewn to Friends of the ſaid *Loyd* or *Vanbebber* in *Newcaſtle County*. That ſome time *after* he wrote an Account of what he had done, to *Governor Ogle*, but received no Anſwer concerning the ſame, nor had any other Converſation with him, that he remembers relating thereto.

The Same [*Int.* 36. *fol.* 15] That the Hand-writing, *for Atteſtation*, at the Bottom of the *Copy of the Letter* now ſhewn to him, N° 2. is the Hand-writing of this *Deponent*. And the whole *Endorſement* upon the ſaid Letter was wrote by this *Deponent*. And the Name *Hugh Jones* is of this Deponent's Hand-writing, and ſtands for his proper Name. That by the Word (*Friends*) in the *Endorſement* of the ſaid Letter, he meant the *Goodwins* and others who lived near *Apoquinomy* in *Newcaſtle County*, on Lands which he ſuppoſed had formerly been taken up under *Maryland* Rights, *but were then poſſeſt under other Rights*.

The

The Same [*Int.* 48. *fol.* 17] That he neither holds or claims *any* Lands which, he *apprehends*, will fall within the Province of *Penſilvania* or the three lower Countries, if the Lines which were *intended* to be run by the Articles ſhould be *eſtabliſht*, or if the Circle ſhould be run at the Diſtance of 12 Miles from the Town. And apprehends he ſhall not be a *Gainer*, if the Bounds of *Maryland* ſhould be extended farther Northward than now ſuppoſed to be, or the three lower Counties ſhould be adjudged to Lord *Baltimore*.

What a diſhoneſt Proceeding this, while under a *new Appointment* for meeting to execute the Articles made by my Lord *Baltimore himſelf!* This is the *Candor* and *Fairneſs* they uſed.

This ſhews whether my Lord, and his Governor and Commiſſioners did, or did not, endeavour to avoid the Articles, by any *other* means except that of failing perſonally to appear at the Times appointed for Meetings——And this confirms, *moſt ſtrongly*, what *all* our Commiſſioners ſay in Evidence on that Head, by and by.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 90. *fol.* 419] Says that all the Plaintiffs Commiſſioners, upon 28th *March* 1733, *ſigned a Notice in Writing* to the Defendant's Commiſſioners, requiring them to meet the Plaintiffs Commiſſioners at *Newcaſtle* the 16th of *April* then next, which Notice was delivered to *William Biddle*, who, he believes, (from an Affidavit of *Biddle*'s that he has ſeen) did ſerve the ſame or Copies thereof, upon all the Defendant's Commiſſioners in *Maryland*, and in a few Days after the ſaid 16th Day of *March*——And ſays that, immediately on *Biddle*'s Return from *Maryland*, he gave to ſome of the Plaintiffs Commiſſioners a croſs Notice from the Defendant's Commiſſioners requiring the Plaintiffs Commiſſioners to meet the Defendant's Commiſſioners at *Joppa* in *Maryland*, on 7th *May*.

William Biddle [*Lib.*C. *fol.* 474. *Int.* 106. *fol.* 475] Has lookt on the Paper Writing markt *B.* 5. and ſays it contains a true Copy of *ſeven* Original Papers which were delivered by Governor *Gordon* and the reſt of the Plaintiffs Commiſſioners who have ſubſcribed the ſame, to him on ſaid 28th *March*, to be ſerved on the Defendant's Commiſſioners in *Maryland*. That he afterwards on 2d *April* following, ſerved ſix of the ſame, upon *Ogle*, *Calvert*, *Howard*, *Jennings*, *Tasker* and *Ward* ſeverally, but did not ſerve *Loyd*, he being dead or abſent—— And he, on the 3d of the ſaid *April*, at *Annapolis* in *Maryland*, made Oath, before one of the Magiſtrates of the Provincial Court there of ſuch ſeveral Services.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 91. *fol.* 421] Says that a Quorum of the Plaintiffs Commiſſioners met at *Newcaſtle* on 16th *April* according to the Notice given to the Defendant's Commiſſioners; but the Defendant's Commiſſioners, or any of them, did not appear there.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 88. *fol.* 417] Believes Lord *Baltimore* was in *Maryland* on the 5th and 15th Days of *February* 1732.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 89. *fol.* 417] Knows the Town of *Joppa* in *Maryland*, which he believes is about *fifty or ſixty* Miles from *Newcaſtle* Town; between which Places there are *ſeveral Fords* which are difficult to paſs after great Rains, *beſides* the *great River* of *Suſquehannah*——That the ſaid Town of *Joppa* is a *ſmall Village* with but *few Houſes* in it, and can afford but *very ordinary Entertainment* for Gentlemen or Strangers——That, at the *former* Meetings of the Commiſſioners at *Newtown* and *Newcaſtle*, it was *agreed*, by the ſaid Commiſſioners, on *both* ſides, that the *firſt* thing *neceſſary* to be done was to run the Circle *about the Town* of *Newcaſtle*, and, in order thereto, that a *Center* for the ſaid Circle was *to be fixed*. And ſays that *Joppa* was *not* a convenient Place to fix the ſaid Center, and, as he apprehends, it could *not* be done *there* with Certainty.

Samuel Preſton [*Lib.* B. *fol* 312. *Int.* 92. *fol.* 422] That a Quorum of the Plaintiffs Commiſſioners met at the Town of *Joppa* in *Maryland*, on 7th *May* 1733——That going thither was *very inconvenient*; becauſe it was a *long Journey* thither, the *Roads very bad*, their *Entertainment* at the ſaid Town *very indifferent*, and it was *quite out of the Way of the Buſineſs* the Commiſſioners had to do ——That a Quorum of the Defendant's Commiſſioners met them at *Joppa* on 7th and 8th *May*——That on the 2d or 3d Days of the Commiſſioners Meetings at *Joppa*, it was *propoſed*, by one of the Defendant's Commiſſioners, ſeeing they could not agree upon running the Circle at *Newcaſtle* aforeſaid, to *adjourn* to ſome *other* Place——And, after ſeveral Propoſals and Debates *thereon*, it was, on the 9th of *May*, agreed to adjourn to *Philadelphia*, which is about *ninety* Miles diſtant from *Joppa*. Which was agreed to by the Plaintiffs Commiſſioners, *in regard* to the Convenience of the *Defendant*'s Commiſſioners, who were to wait on Lord *Baltimore* in his way to *Philadelphia*——Believes *that* Adjournment was to 21ſt *May*, but it was agreed, if the Defendant's Commiſſioners, who were to wait on him to *Burlington*, could not return from thence in convenient time to *Philadelphia*, then the Defendant's Commiſſioners were to give the Plaintiffs Commiſſioners Notice to meet at *Philadelphia*, in ſome ſhort time *afterwards*, and no Advantage was to be taken of their not meeting *on the Day* to which they adjourned——And believes it was alſo propoſed and agreed to, that the *Maryland* Commiſſioners ſhould not be ſtaid at *Philadelphia*, from returning to *Maryland*, *above one Day*, and that their *next* Meeting ſhould be in the County of *Newcaſtle*, on the 18th of *June* then next following.

Jeremiah Langborne [*Lib.* C. *fol.* 719. *Int.* 92. *fol.* 726] Says the Defendant's Commiſſioners did meet the Plaintiffs Commiſſioners at *Joppa*, on 7th *May*; and it was *very inconvenient* for the Plaintiffs Commiſſioners to meet them at *that* Place, where he conceives *nothing could be done* to put the Articles in Execution——That the Commiſſioners met at *Joppa* again, on 8th *May*—— That on the 2d Day of the Meeting at *Joppa*, *ſeveral Diſputes* aroſe between them, concerning the *Dimenſions* of the Circle, and the Defendant's Commiſſioners inſiſted it ſhould be a Circle whoſe *Circumference* was 12 Miles, and the Plaintiffs Commiſſioners inſiſted it ought to be a Circle of 12 Miles *Radius*. That *thereupon*, one of the Defendant's Commiſſioners (Mr. *Ogle*, according to his beſt Memory) *propoſed*, ſeeing they could *not* agree upon the Extent of the Circle, *to adjourn immediately* to *Cape Hinlopen*, to run the *Line* from thence, which ſeemed to be generally *agreed* to: And then the Plaintiffs Commiſſioners propoſed to go *immediately* to the ſaid Cape, and ſaid they had brought *Artiſts with them*, who would run the *ſaid Line*. [Obſerve, we were always *ready* to do *any* thing] To which *Ogle* replied, that the Word, *immediately*, as uſed by him, was to be underſtood with *ſome Qualification*, and that it meant *only* to go there, *as ſoon as they conveniently might*. [Well! when was that to be?] And added, that Lord *Baltimore* was in *Cheſopeak* Bay, in his Way to *Burlington* in *New Jerſey*, whither *they* were obliged to wait on his Lordſhip. Then ſome of the Defendant's Commiſſioners propoſed to adjourn to *Philadelphia*——which is about 100 Miles diſtant from *Joppa*; which being agreed to by the Plaintiffs Commiſſioners, on the 9th of *May*, they adjourned accordingly to ſome Day in that Month, as the Affirmant believes, but does not remember the particular Day.

Benjamin Tasker the Defendant's Witneſs and Commiſſioner, being croſs-examined, [*Lib.* E. *fol.* 49. *Int.* 16. *fol.* 66] Names the Commiſſioners who met on both ſides at *Joppa* on 7, 8, and 9th *May*, and that they adjourned to Mr. *Norris*'s Houſe at *Philadelphia*, but at *whoſe Inſtance*, or what the Reaſons aſſigned for ſuch Adjournment were, does not *particularly* remember, but *believes* ſuch Adjournment was made *at the Inſtance* of the *Maryland* Commiſſioners.

Jeremiah Langborne [*Lib.* C. *fol.* 719. *Int.* 93. *fol.* 731] He was *preſent* at the Meeting between Quorums of the reſpective Commiſſioners at *Joppa*, which as well as he remembers was on 7th *May* 1733 ——That *before* any Debates between them, Mr. *Ogle* obſerving the Affirmant there, aſkt who the Affirmant was? And ſaid he did not know that *any* Perſon, except the Commiſſioners, had any Buſineſs there. Whereupon *Jennings*, one of the Defendant's Commiſſioners ſaid, perhaps the Gentleman is a Commiſſioner. To which Mr. *Hamilton*, one of the Plaintiffs Commiſſioners, replied, No, he is *not* a Commiſſioner, but he is a Gentleman that the Plaintiffs Commiſſioners have brought with them to be *a Witneſs*, and prevent *any Miſrepreſentations* of their Proceedings. That then the ſaid *Ogle*, after ſome *more Objections* to any Stranger's being preſent during their Debates, ſaid he was contented, provided they would permit ſome *other* Perſon, on behalf of *Maryland*, to be preſent *likewiſe*. To which Mr. *Hamilton* replied, with all his heart, *as many as he pleaſed*. Whereupon one *Beale* was called in by the Defendant's Commiſſioners——And thereupon, the Debate, mentioned by this Affirmant in Anſwer to the 92d Interrogatory, concerning the *Dimenſions* of the Circle aroſe between the Commiſſioners; Whereupon the Plaintiffs Commiſſioners inſiſted that the Arguments on the ſame ſhould be reduced to *Writing* by the Commiſſioners on each ſide, which was accordingly done by delivering written Papers to each other. To all, or many of which, this Affirmant was a Witneſs, by ſubſcribing his Name thereto. That the *Reaſon* given by the Plaintiffs Commiſſioners why the ſaid Arguments ſhould be reduced into *Writing*, were to prevent *any* Miſrepreſentations on *either* ſide, of what was ſaid therein.

The Same to the [94th *Int. fol.* 734] Says he was preſent alſo at the Meeting of the Commiſſioners on the 8th of *May*.

The Same to the [97th *Interrogatory*, *fol.* 735] Says that Quorums of the ſaid Commiſſioners met at *Joppa* on the 9th of *May*.

James Logan [*Lib.* B. *fol.* 76. *Int.* 95. *fol*, 192] Says that beſide running the Circular Line, there were, in his Judgment, *five* ſtrait Lines, neceſſary to be run in order to compleat the carrying into Execution the Agreement, and that not more than *two* of thoſe ſtrait Lines would be affected or altered, according as the ſaid Circle ſhould be drawn at *twelve*, or at leſs than *two*, Miles Diſtance from the Town of *Newcaſtle*.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 98. *fol.* 428] Says the Defendant's Commiſſioners did not return from *Burlington* by 21ſt May, but gave notice they could not conveniently meet *that* Day, but would meet at *Philadelphia* on 26th *May*. Accordingly Quorums of the Commiſſioners met at *Philadelphia* on *that* Day. When, nothing material was done, but the *Defendant*'s Commiſſioners *then* propoſed to adjourn to the 3d of *September*, alledging for Reaſons, that *they* were obliged to attend on Lord *Baltimore* down to *Virginia*, in his Way to *England*, and particularly, that as Lord *Baltimore* had taken the Government of *Maryland* upon him ſince his Arrival, 'twas neceſſary for Mr. *Ogle* to go down to *Virginia*, to be qualified, a-new, before the Governor of *Virginia*, in order to re-aſſume the ſaid Government upon Lord *Baltimore*'s Departure. *For which Reaſons*, and on Conſideration that the Buſineſs of their Commiſſions could not well be done in the mean time, the Woods being full of Leaves, and the Seaſon hot, the Plaintiffs Commiſſioners conſented to ſaid Propoſal, and they adjourned accordingly, to meet at *Newcaſtle* Town on 3d *September*.

James Logan [*Lib.* B. *fol.* 76. *Int.* 98. *fol.* 193] Is rather *ſtronger* in the laſt foregoing Account; for he aſſigns *no* other Reaſon for that *very long* Adjournment from *May* to *September*, than *only* the Engagements the *Maryland* Commiſſioners pretended to be under, on *their* ſide.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 99. *fol.* 431] That five of the Defendant's Commiſſioners (amongſt which was *John Roſs* by vertue of a *new* Commiſſion) met ſix of the Plaintiffs Commiſſioners at *Newcaſtle* Town, on 3d *September* 1733, and there continued ſeveral Days——During which Days, upon *ſeveral* Debates, the Defendant's Commiſſioners did *declare* that *they* could agree to run out *no other* Circle than one whoſe *Circumference* was twelve Miles; and the Plaintiffs Commiſſioners inſiſted that the ſame ought to be a Circle of 12 Miles *Radius* from the ſaid Town. Whereupon, the Plaintiffs Commiſſioners did require the Defendant's Commiſſioners to ſtate their Propoſals and Arguments *in Writing*, and they would anſwer them in the *ſame* manner, which was accordingly done, by delivering ſeveral *written Papers* to each other—— But the Commiſſioners not agreeing, a Propoſition was made, to the beſt of the Affirmant's Memory, by one of the Defendant's Commiſſioners, to adjourn, to a Time he has forgot; but it was afterwards agreed by *all* the Commiſſioners to adjourn to the 14th of *November*, then next following, at *Newcaſtle* Town aforeſaid.

James Logan [*Lib.* B. *fol.* 76. *Int.* 99. *fol.* 197] That Quorums of the Commiſſioners met at *Newcaſtle* on 3d, 4th, 5th and 6th *September* (Governor *Ogle* being ſick, as it was ſaid) and during thoſe Days ſeveral Adjournments were made, and divers Papers paſt between the Commiſſioners on each ſide. And ſays, that on the 5th or 6th of *September* it being propoſed by the *Defendant*'s Commiſſioners to adjourn the next Meeting to 14th *November*, the ſame was, after ſome Debates, at length, agreed to by the Plaintiffs Commiſſioners.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 100. *fol.* 434] That *Ogle*, *Tasker*, *Jennings*, *Harris* and *Roſs*, Commiſſioners for the Defendant, and Meſſieurs *Norris*, *Logan*, *Hamilton*, *Steel* and the Affirmant, Plaintiffs Commiſſioners, met at *Newcaſtle* Town, on 14, 15, 16, 17, 19, 20, 21, 22, 23, and 24th *November* 1733. And during thoſe Days the reſpective Commiſſioners for the Plaintiffs and Defendant did not recede from, but declared they reſpectively adhered to their former *ſeveral* Opinions, concerning the Dimenſions of the Circle——And ſays there were ſome *verbal* Propoſals made by the Commiſſioners on each ſide, but the *principal* Part of their Debates were tranſacted by written Papers, delivered to each other. ——That *during* the ſaid ſeveral Meetings, and as he believes either on 14, 15, or 16th *November*, ſome of the *Defendant*'s Commiſſioners verbally *declared*, that it was *to no purpoſe* for the Commiſſioners to *continue* longer together, and *propoſed*, that the Commiſſioners ſhould *diſcontinue* their Meetings, and depart *without* further *Adjournment*. To which the *Plaintiffs* Commiſſioners did *not conſent* or agree.

James Logan [*Lib.* B. *fol.* 76. *Int.* 100. *fol.* 199] Fully and ſtrongly confirms the foregoing, and ſays, that Mr. *Ogle repeatedly propoſed* upon 14, 15, and 16th *November*, to break up, and *diſcontinue* the Meetings, and depart without Adjournment, and that the *Plaintiffs* Commiſſioners in general, did, during thoſe three Days, *decline* to agree to ſuch Propoſal.

The Same [*Int.* 101. *fol.* 203] Says that at the Meeting of the ſaid Commiſſioners on or about 19th *November*, it was *repeatedly* alledged and declared to be the Opinion of the Defendant's Commiſſioners, that *no other* Conſequence *could* ariſe from the Difference of Judgment between them and the Plaintiffs Commiſſioners than that *either* the Commiſſioners ſhould continue at *Newcaſtle* till 25th *December* then next, *without running the Circle*, *or* depart from *Newcaſtle* without further Adjournment.

The Same [*Int.* 102. *fol.* 204] That at the ſaid Commiſſioners meeting on or about 23d *November*, it was *propoſed* by *Ogle* or *Jennings* (but which he does not now remember) on the Part of the Defendant's Commiſſioners, that as the Commiſſioners had continued ſo long together, in exchanging of Papers, and were ſtill as far off from agreeing as ever, they ſhould *then* depart——And *thereupon*, it was agreed by the Commiſſioners on both ſides that ſome *parting Minute* ſhould be prepared againſt the next Day, and that the ſame ſhould be drawn up by *Jennings* and the Affirmant.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 102. *fol.* 437] Says to the like effect, but does not remember *who* of the Commiſſioners made that Propoſal.

The Same [*Int.* 103. *fol.* 438] Says that the Plaintiffs and Defendant's Commiſſioners did, at *Newcaſtle*, on 24th *November* 1733, ſign a parting Minute, dated that Day, and then departed without further Adjournment

James Logan [*Lib.* B. *fol.* 76. *Int.* 103. *fol.* 438] Says the ſame.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 66. *fol.* 340] Says that *he knows* that ſeveral Perſons were appointed, and acted as Commiſſioners on the Plaintiffs Part, in order to carry into Execution the Articles of 10th *May* 1732, *viz. Patrick Gordon*, Lieutenant-Governor of *Penſilvania*, who *died* in *Auguſt* 1736, *Iſaac Norris*, *who died* between 5 and 6 Years ago, and this Affirmant, *James Logan*, *Andrew Hamilton* and *James Steel*, who are ſtill living, and *Robert Charles*, *who departed* about a Year ago for *Great Britain*, where the Affirmant ſuppoſes he is ſtill living. That he hath lookt upon the *Paper-Book or Writing* marked Letter (A) now produced, and which hath a *Great Seal* hanging to it, and knows the ſaid Seal to be the Great Seal of *Penſilvania*, and hath lookt towards the *latter End* of the ſaid Paper-Book, in Page 9c, where there is a Date, *viz.* (*Philadelphia*, *January* 10th 1733-4) And ſaith that the Names, *P. Gordon*, *I. Norris*, *S. Preſton*, *J. Logan*, *A. Hamilton*, *J. Steel*, and *R. Charles*, there ſet, are their ſeveral *proper Hand-writings*, and were ſo *wrote and ſubſcribed* by them reſpectively, in this Affirmant's *Preſence*. And ſaith he has alſo looked upon the *laſt* Page of the ſaid Book, and is well acquainted with the ſeveral Hand-writings of the ſaid *Gordon*, *Norris*, *Logan*, *Hamilton*, *Steel* and *Charles*, having *frequently ſeen them write*, and ſaith their Names, there ſubſcribed, are their reſpective Hand-writings and were wrote and ſubſcribed by them ſeverally, in this Affirmant's *Preſence*. And that *Samuel Preſton*, there alſo ſet and ſubſcribed, is the Affirmant's own Hand-writing, and was by him there ſubſcribed, at the ſame time with the reſt of the ſaid Subſcribers. And ſaith the Name *Thomas Graeme* there alſo ſubſcribed, is the proper Hand-writing of *Thomas Graeme*, who on 20th *June* 1734, was, and is ſtill one of the principal Judges of *Penſilvania*, and then had, and ſtill has, Power to adminiſter *Oaths* to, and take *Affirmations* from Perſons in *Penſilvania* aforeſaid; And ſaith that the ſeveral Names following, *viz. J. White*, *S. Mickle*, *J. Richmond*, and *W. Spafford*, there alſo appearing

to be ſubſcribed, are their ſeveral Hand-writings, and were there wrote and ſubſcribed by them reſpectively, *in this Affirmant's Preſence*. And ſaith that on 20th *June* 1734 the ſaid *Gordon*, *Hamilton*, and *Charles*, made *Oath*, and the ſaid *Norris*, the Affirmant, *Logan*, and *Steel*, being Quakers, did ſolemnly *affirm* to the Truth of the *Affidavit* and *Affirmation* comprized and wrote in the ſaid laſt Page of the ſaid Book, before the ſaid *Thomas Græme*, and in the Preſence of the ſaid *White*, *Mickle*, *Richmond* and *Spafford*, and ſaith the *Occaſion* of the Affidavit and Affirmation being *ſo made* and taken was from an *Apprehenſion* that there would be *ſome* Complaint made to *the King and Council*, for a *Failure* in the *Execution* of the ſaid Articles of Agreement of 10th *May* 1732.

James Logan [*Lib.* B *fol.* 76. *Int.* 66. *fol.* 163] Proves the ſame in the ſelf-*ſame* Words as Mr. *Preſton*, it being the *Return* or *Report* then *made*, on 10th *January* 1733, and ſworn and affirmed to on 20th *June* 1734, containing *moſt minutely* the *like Account* of the Commiſſioners Proceedings, in order to have carried the Articles into Execution, as are *now* given by them in Detail, upon a freſh Examination *in the Cauſe* as to the Proceedings and Behaviour of the Commiſſioners at *every one* of the ſeveral Meetings from 6th *October* 1732, to 24th *November* 1733.

* *James Steel* [*Lib.* C. *fol.* 559. *Int.* 66. *fol.* 565] alſo proves the ſame *Report* in the ſelf-ſame Words as Mr. *Preſton* and Mr. *Logan*.

Andrew Hamilton [*Lib.* C. *fol.* 775. *Int.* 117. *fol.* 874] Says that the ſaid Report is *a true Narrative* of the moſt material Proceedings of the ſaid Commiſſioners——And ſays that the *Minutes* of the ſeveral Tranſactions of the Commiſſioners which are related and ſet forth therein, were carefully taken by the Plaintiffs Commiſſioners, or ſome of them, *at the Time*, or *within a Day* of the reſpective Times, on which the ſaid ſeveral Tranſactions happened——And that the *Copies of Papers* at large, ſet forth and comprized in the ſaid Report, are true *Copies* of the ſeveral Original Papers which paſt between the Commiſſioners on both ſides, of which they purport to be Copies, and then gives the *like* Account as the former, of the making up, ſigning, ſwearing, and affirming to that Report, and the *Occaſion* thereof, as all the other living Commiſſioners have before done.

Thomas Græme [*Lib.* C. *fol.* 566. *Int.* 117. *fol.* 667] Proves that all the Commiſſioners *ſigned* their Affidavit, and reſpectively ſwore and affirmed to the ſame, before him, on 20th *June* 1734, and that he was in ſuch Office, and had Power to adminiſter Oaths and Affirmations.

But if there be any Occaſion, it is *eaſier* to turn to the freſh Examinations *in the Cauſe*.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 62. *fol.* 452] That he was one of the Commiſſioners appointed by the Plaintiffs to run and mark the Lines mentioned in the Agreement, and as ſuch, did attend *all* the Meetings had between the Plaintiffs and Defendants Commiſſioners for the Execution of the ſaid Articles——And ſays, he *never* received, *directly or indirectly*, from, or on behalf of the Plaintiffs, any Order, Direction, Inſtruction or Intimation to retard, evade, fruſtrate, avoid or impede the Execution of the ſaid Agreement——And that neither he, nor any other of the Plaintiffs Commiſſioners, to the Knowledge or Belief of the Affirmant, did, *at any time*, or in any manner, *endeavour* to retard, avoid, or fruſtrate the Execution of the ſaid Agreement.

James Logan [*Lib.* B. *fol.* 76. *Int.* 62. *fol.* 159] was alſo one of the Plaintiffs Commiſſioners for the Purpoſe aforeſaid, and attended the Execution of the ſaid Commiſſion *three* ſeveral *Times* [He means *Seſſions's*] at *Newcaſtle*, and once at *Philadelphia* —[Note, he being infirm, did not go down to *Newtown*, nor yet to *Joppa*, in *Maryland*] That neither the Affirmant, or any of the Plaintiffs Commiſſioners, to his Knowledge or Belief, *ever* did, *at any Time*, or in any manner, *endeavour* to retard, avoid, or fruſtrate the Execution of the ſaid Commiſſion; nor did he receive *directly or indirectly*, *at any Time*, from, or on behalf of the Plaintiffs, any Order, Direction, Inſtruction or Intimation to retard, delay, evade, avoid, fruſtrate, or impede the Execution of the ſaid Commiſſion.

Andrew Hamilton [*Lib.* C. *fol.* 775. *Int.* 62. *fol.* 776] That he was appointed one of the Plaintiffs Commiſſioners, and attended all the Meetings of the Commiſſioners that were held on that Buſineſs from time to time (except that on the 3d of *February* 1732) That he *never* received, *directly or indirectly*, any Order, Direction, Inſtruction or Intimation, from, or on behalf of the Plaintiffs, or any of them, to retard, evade, avoid, fruſtrate or impede the Execution of the ſaid Commiſſion——But on the *contrary*, this Deponent and the *reſt* of the Plaintiffs Commiſſioners, were *ſeveral times*, *and very frequently*, while the Execution of the ſaid Commiſſion was depending, *deſired* and very *much preſſed*, by the Plaintiff *Thomas Penn*, and it was his *conſtant* Inſtructions to *this* Deponent and the *reſt* of the Plaintiffs Commiſſioners, to uſe *all* the *Diſpatch* and *Candor* they *poſſibly* could, to carry the ſaid Agreement into Execution——Says he *never* did, in *any* manner, *endeavour*, *or do any* Act or Thing that he conceived could or would fruſtrate, avoid or hinder the Execution of the ſaid Commiſſions; nor, to the beſt of his Knowledge and Belief, did *any* of the reſt of the Plaintiffs Commiſſioners *endeavour* or *do* any thing to fruſtrate, avoid or hinder the Execution of the ſame Commiſſions.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 62. *Fol.* 561.] That he was appointed one of the Plaintiffs Commiſſioners, and did attend on *all* the Days that the Plaintiffs and Defendant's Commiſſioners met for that Purpoſe, (except the *two laſt* Days of their meeting) That he *never* did receive, *directly* or *indirectly*, from or on behalf of the Plaintiffs, any Order, Direction, Inſtruction, or Intimation to retard, evade, avoid, fruſtrate or impede the Execution of the ſaid Commiſſion; and that, neither he, nor to his Knowledge or Belief any other of the Plaintiffs Commiſſioners, *ever* did, in *any* manner *endeavour* to avoid, retard or fruſtrate the Execution of the ſaid Commiſſion, but on the contrary, *did* all that was in their Powers to execute the ſame.

Note well, We never had any more than our original *ſeven* Commiſſioners; two of which are proved to have been dead, and the *third* come for *Europe*, at the Time we examined our Witneſſes, and we have examined *every one* of the other *four*, who concur preciſely in this general Account at all Times whatſoever——On the other Hand, the Defendant chopt and changed *his* Commiſſioners till he made his original *ſeven* to be *ten* in Number; of thoſe *ten* he has examined *only* three; againſt whom there are many Objections alſo; but as to this preſent Point, they are moſt carefully *aſkt*, and as *cautiouſly* anſwer, that they did not contrive *along with the Defendant* to avoid the Agreement at one *particular* Time, when it was no way *poſſible* for them to have done it, *at that Time*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 63. *Fol.* 453.] Says that *Samuel Ogle*, *Charles Calvert*, *P. Loyd*, M. *Howard*, M. *T. Ward*, *R. Bennett*, *Benj. Taſker*, *E. Jennings*, *James Harris* and *John Roſs* [ten] were the Perſons who, at *ſeveral* Times, appeared and acted as Defendant's Commiſſioners——And ſays that *none* of the ſaid ſeveral Perſons, in the Opinion and Belief of the Affirmant, did proceed with *Fairneſs*, *Candour* or *Diſpatch*, in the Service mentioned in their Commiſſions——But, on the contrary, did *ſhew an Unwillingneſs* and *Reluctance* to *execute* the Articles of Agreement according to the *plain Meaning* of the ſaid Articles, as the Affirmant, and, he believes, the reſt of the Plaintiffs Commiſſioners underſtood them, by uſing *many* Arts and Methods to *prevent*, *fruſtrate*, *evade* and delay a fair Execution of the ſame.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 63. *Fol.* 563.] He alſo names the ſame *ten* Perſons who appeared and acted as the Defendant's Commiſſioners,——and ſays he verily believes the ſaid Commiſſioners, or *any* of them, did *not* conduct themſelves with *Fairneſs*, Candour or *Diſpatch* in carrying the ſaid Articles into Execution; but, as it *appeared* to the Affirmant, did *ſhew an Unwillingneſs and Reluctance* to execute the ſame according to the *plain Directions* of the ſame Articles,——and alſo that they the Defendant's Commiſſioners did *uſe ſeveral Arts and Methods*, to *delay*, prevent and evade the Execution of the ſaid Articles, and marking the Lines and Bounds therein mentioned, purſuant to the true Intent and Meaning of the ſame Articles.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 63. *Fol.* 161.] Names the ſame *ten* Perſons who appeared and acted as the Defendant's Commiſſioners at the Meetings where he was preſent——Says that *all* the Commiſſioners on the Part of *Maryland* appeared to him to have ſubjected *their* Conduct, in a *very great* meaſure, if not *intirely*, to the Direction of the ſaid Governor *Ogle*——And it alſo *appeared* to this Affirmant, from the *firſt* Time of the Meeting at *Newcaſtle* in *October*, *from the general Conduct* of the ſaid Governor *Ogle*, that *he* had *fully purpoſed* and *deſigned* to *evade* the Execution of the ſaid Articles.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 109. *Fol.* 444.] That the Commiſſioners of the Plaintiffs and Defendant, to the beſt of his Memory, met 25 or 26 *Days* about the Execution of the ſaid Agreement of *May* 1732. The *firſt* of which Days was 6th *October* 1732, and the *laſt* 24 *November* 1733——Says he verily believes there was *ſufficient Time*, during ſuch their Meetings, and before 25 *December* 1733, to have run and marked out the *Circle*, and *all the Lines* directed by the ſaid Agreement to be run, if no Difference, or *pretended* Difference in Judgment had ariſen amongſt the Commiſſioners——which running and marking out the ſaid Circle and Lines, the Affirmant ſays, was *not obſtructed or hindred* by the *Non-Attendance* of the Commiſſioners, on *either* Side; but, as it *appeared* to the Affirmant from the *general Actings and Behaviour* of *all* the Defendant's Commiſſioners, was *wholly owing* to an *Unwillingneſs* in *all* the Defendant's Commiſſioners to run or mark out the ſaid Circle and Lines——And further ſays that he, from time to time, *always* met, with full Intention and Deſign to *execute* the ſaid Agreement, and verily believes, from the *general Conduct*, Actings and Behaviour of *all the reſt* of the Plaintiffs Commiſſioners, that *they* from time to time, always met with the *ſame* Deſign and Intention.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 109. *Fol* 212.] Says the like, that there was *abundant* Time to have run and markt the Circle and all the Lines, if no Difference, or *pretended* Difference in Judgment had ariſen amongſt the Commiſſioners——And ſays the running out the Circle and Lines was *not prevented*, by *Non-Attendance* of the Commiſſioners on *either* Side——But was *occaſioned*, as he believes, by the long *Adjournments* preſt and *inſiſted* on by the *Defendant's* Commiſſioners; owing (in his Opinion) to a *formed Reſolution* on *their* Parts to *evade* the Execution of the Agreement, by *any* means but *that* of failing in their Meetings according to their Adjournments——He likewiſe ſays, that he *always* had a *full Intention* to execute the Agreement.——And it was *apparent* to him, and he verily *believes*, from the Actings and general Behaviour of the reſt of the *Penſilvania* Commiſſioners, that *they* met and acted from time to time, with full Intention to execute the ſaid Agreement.—And it was *apparent* to him, and he *verily believes*, from the *Actings and general Behaviour* of the *Maryland* Commiſſioners, during all the ſaid Meetings he was at, (which were on *nineteen* of the ſaid Days) that *they* did *intend* to *delay* and *avoid* the Execution of the ſaid Agreement.——And the Reaſons for his Belief are that they *early* alledged *they* could not find a *Center*, and then aſſerting and inſiſting that by a Circle *expreſly directed* to be run at the *Diſtance* of 12 *Engliſh* Miles *from Newcaſtle*, was *intended* a Circle of *leſs than two Miles* Diſtance from *Newcaſtle*.

Andrew Hamilton [*Lib.* C. *Fol.* 775. *Int.* 109. *Fol.* 779.] That the Commiſſioners of the Plaintiffs and Defendant, who acted in the Execution of the Agreement *May* 1732, under the Com-
780 miſſions mentioned in his Anſwer to the 62d Interrogatory, met on that Buſineſs on 26 *ſeveral Days*. The firſt of which was the ſixth *October* 1732, at *Newtown* in *Maryland*, and the *laſt* on *the 24th November* 1733, at *Newcaſtle* Town, according to the beſt of this Deponent's Remembrance. And ſaith that *there was*, in his Judgment and
781 Belief, *abundantly more than ſufficient Time*, during ſuch the ſaid Meetings of the ſaid Commiſſioners, and before the 25th Day of *December* 1733, to have run and *marked* out the *Circle*, *and all the Lines* directed to be run and markt out, by the ſaid Agreement, if *no Difference* or *pretended* Difference in Judgment, concerning the ſame, had *ariſen* amongſt the ſaid Commiſſioners. And ſaith that he *hath been credibly informed*, by Surveyors and Perſons, who are well acquainted with, have been much converſant in, ſuch
782 Buſineſs, and this Deponent *believes* it to be true, that two Months, and a little more, at a proper Seaſon of the Year, would be *ſufficient* for the running and marking out the Circle and Lines aforeſaid. And ſaith that *running out of* the ſaid Circle and Lines *was not prevented* by the *Non-Attendance* of the ſaid Commiſſioners, on *either* Side; and that
783 the ſaid Commiſſioners, on *either* Side, or a Quorum of them, did *not abſent* themſelves, or ſtay from *any* of the ſaid Meetings, beyond the Time of Adjournment, above an *Hour* or *two at moſt*. That the *Reaſon aſſigned*, *by the Defendant's Commiſſioners*, for their not joining with the Plaintiffs Commiſſioners in running out the ſaid Circle and Lines was, their *not agreeing* with the Plaintiffs Commiſſioners *in their Opinion* or Conſtruction of the *Meaning* of the ſaid Articles of Agreement of *May* 1732; but, *it was*
784 *apparent* to the Deponent, *that the Unwillingneſs* of the Defendant's Commiſſioners to carry the ſaid Agreement into Execution, *was the true Cauſe* or Reaſon why the ſaid Circle and Lines were not run and markt out by the 25th Day of *December* 1733. And ſaith that he is *well ſatisfied that all* the Commiſſioners on the Part of the Plaintiffs, *always* met and acted, from time to time, with *full Intention* to *execute* the ſaid Agreement; and on the *contrary*, that it was *apparent* to him, and he verily *believes*, from the *Tenor*
785 *of the Actings*, and *general Behaviour* of the Commiſſioners who acted from time to time on the Part of the Defendant in the Execution of the ſaid Commiſſion and Articles of Agreement, *never intended* to carry the ſaid Agreement into Execution. And that the *Reaſons* for ſuch this Deponent's Belief therein are, as follows, *viz.* That *Samuel Ogle* Governor of *Maryland*, and *Patrick Gordon* Governor of *Penſilvania*, having agreed that the Commiſſioners on each Side ſhould meet at *Newtown*, in *Kent* County in
786 *Maryland*, on the 6th of *October* 1732, in order to carry the ſaid Articles of Agreement into Execution, the ſaid *Samuel Ogle*, *Philemon Loyd*, *Charles Calvert*, *Michael Howard*, *Richard Bennett*, *Matthew Tilghman Ward* Eſqs; Commiſſioners on the Part of the Defendant; and the ſaid *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, this Deponent, *James Steel* and *Robert Charles*, Commiſſioners on the Part of the Plaintiffs, met, accordingly, at *Newtown* aforeſaid on the ſaid 6th of the ſaid *October*, and agreed to meet
787 again the next Day, being the 7th of the ſaid *October*, at the ſame Place, and met accordingly on the ſaid 7th Day of *October*, and the *Articles* of Agreement between the Plaintiffs and Defendant, and the *Commiſſion* to the before-named Commiſſioners on the Part of the Plaintiffs, and alſo the Commiſſion to the before-named Commiſſioners on
788 the Part of the Defendant, *being produced and read*, the ſaid Mr. *Ogle*, on the Part of the Defendant, *objected* to the *Validity* or Sufficiency of the ſaid Commiſſion from the Plaintiffs to the ſaid *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, this Deponent, *Robert Charles* and *James Steel*, and alſo to *James Logan* Eſq; directed, *for want of proper Perſons being joined* in the granting of that Commiſſion, and ſhewed an *Indorſement*, made upon the Defendant's Part of the ſaid Articles, which Indorſement was ſigned, as this Deponent remembers, with the Names *Letitia Aubrey*, *William Penn*, and others, purporting *their* Conſent and Approbation of the ſaid Articles of Agreement, and that they
789 would do nothing to fruſtrate or make void the ſame, or to ſuch Effect; and *therefore*, *urged* that the Perſons, ſigning the ſaid Indorſement, *ought to have joined in granting* the ſaid Commiſſion to the ſaid Commiſſioners on the Part of the Plaintiffs, and, for not having ſo done, the ſaid Commiſſion was *not ſufficient* to authoriſe the Plaintiffs Com-
790 miſſioners to carry the ſaid Articles into Execution; to which it was anſwered, by the Plaintiffs Commiſſioners, that, tho' the Defendant might think it proper, for his own Security, or any other Reaſon, to take ſuch an Indorſement as aforeſaid, from the ſaid *Letitia Aubrey* and *William Penn*, or any others, not being Parties to the ſaid Articles, it could not affect the ſaid Commiſſion granted by the Plaintiffs; and much being ſaid, by the Defendant's Commiſſioners, and thoſe on the Part of the Plaintiffs, touching the ſaid Objection, the ſaid Mr. *Ogle* ſaid, at *length*, he would wave the ſame, for *the preſent*; and then, the Commiſſioners proceeded *to conſider what was firſt* to be done, towards carrying the ſaid Articles
791 of Agreement into Execution, and the Plaintiffs Commiſſioners deſiring the ſaid Articles *themſelves* might be read, it was ſaid, by the ſaid Mr. *Ogle*, that there was *no need* of having recourſe *to the Articles*, *for that* the *Commiſſions* on each Side, were the *only Authority* by which the Commiſſioners could act, and they muſt *purſue the Directions* of the *Commiſſions*, *as* their Guide; but without further Argument, it *was agreed* that *the Circle*, about the Town of *Newcaſtle*, was *the firſt Work enjoined* to be done by the ſaid
792 Commiſſions, and thereupon the *Defendant's* Commiſſioners propoſed to adjourn to the 30th of *October*; to which it was ſaid, by the ſaid Plaintiffs Commiſſioners, that *this was the moſt proper Seaſon* of the Year for running and marking out Lines in the Woods, and that they had *brought their Artiſts and Surveyors*, to run the Lines directed to be run, by the ſaid Articles; and therefore propoſed, that the Commiſſioners *might proceed* to run the ſame *accordingly*; but it being alledged, by the Defendant's Commiſſioners, that
793 the *publick Buſineſs* of their Province required *their* Attendance, and that one of their Artiſts, on whom they chiefly relyed, was ſick, therefore, *they* inſiſted *they* could not attend

to be ſubſcribed, are their ſeveral Hand-writings, and were there wrote and ſubſcribed by them reſpectively, *in this Affirmant's Preſence*. And ſaith that on 20th *June* 1734 the ſaid *Gordon*, *Hamilton*, and *Charles*, made *Oath*, and the ſaid *Norris*, the Affirmant, *Logan*, and *Steel*, being Quakers, did ſolemnly *affirm* to the Truth of the *Affidavit* and *Affirmation* comprized and wrote in the ſaid laſt Page of the ſaid Book, before the ſaid *Thomas Græme*, and in the Preſence of the ſaid *White*, *Mickle*, *Richmond* and *Spafford*, and ſaith the *Occaſion* of the Affidavit and Affirmation being *ſo made* and taken was from an *Apprehenſion* that there would be *ſome* Complaint made to *the King and Council*, for a *Failure* in the *Execution* of the ſaid Articles of Agreement of 10th *May* 1732.

James Logan [*Lib.* B *fol.* 76. *Int.* 66. *fol.* 163] Proves the ſame in the ſelf-*ſame* Words as Mr. *Preſton*, it being the *Return* or *Report* then *made*, on 10th *January* 1733, and ſworn and affirmed to on 20th *June* 1734, containing *moſt minutely* the *like Account* of the Commiſſioners Proceedings, in order to have carried the Articles into Execution, as are *now* given by them in Detail, upon a freſh Examination *in the Cauſe* as to the Proceedings and Behaviour of the Commiſſioners at *every one* of the ſeveral Meetings from 6th *October* 1732, to 24th *November* 1733.

* *James Steel* [*Lib.* C. *fol.* 559. *Int.* 66. *fol.* 565] alſo proves the ſame *Report* in the ſelf-ſame Words as Mr. *Preſton* and Mr. *Logan*.

Andrew Hamilton [*Lib.* C. *fol.* 775. *Int.* 117. *fol.* 874] Says that the ſaid Report is *a true Narrative* of the moſt material Proceedings of the ſaid Commiſſioners——And ſays that the *Minutes* of the ſeveral Tranſactions of the Commiſſioners which are related and ſet forth therein, were carefully taken by the Plaintiffs Commiſſioners, or ſome of them, *at the Time*, or *within a Day* of the reſpective Times, on which the ſaid ſeveral Tranſactions happened——And that the *Copies of Papers* at large, ſet forth and comprized in the ſaid Report, are true *Copies* of the ſeveral Original Papers which paſt between the Commiſſioners on both ſides, of which they purport to be Copies, and then gives the *like* Account as the former, of the making up, ſigning, ſwearing, and affirming to that Report, and the *Occaſion* thereof, as all the other living Commiſſioners have before done.

Thomas Græme [*Lib.* C. *fol.* 566. *Int.* 117. *fol.* 667] Proves that all the Commiſſioners *ſigned* their Affidavit, and reſpectively ſwore and affirmed to the ſame, before him, on 20th *June* 1734, and that he was in ſuch Office, and had Power to adminiſter Oaths and Affirmations.

But if there be any Occaſion, it is *eaſier* to turn to the freſh Examinations *in the Cauſe*.

Samuel Preſton [*Lib.* B. *fol.* 312. *Int.* 62. *fol.* 452] That he was one of the Commiſſioners appointed by the Plaintiffs to run and mark the Lines mentioned in the Agreement, and as ſuch, did attend *all* the Meetings had between the Plaintiffs and Defendants Commiſſioners for the Execution of the ſaid Articles——And ſays, he *never* received, *directly or indirectly*, from, or on behalf of the Plaintiffs, any Order, Direction, Inſtruction or Intimation to retard, evade, fruſtrate, avoid or impede the Execution of the ſaid Agreement——And that neither he, nor any other of the Plaintiffs Commiſſioners, to the Knowledge or Belief of the Affirmant, did, *at any time*, or in any manner, *endeavour* to retard, avoid, or fruſtrate the Execution of the ſaid Agreement.

James Logan [*Lib.* B. *fol.* 76. *Int.* 62. *fol.* 159] was alſo one of the Plaintiffs Commiſſioners for the Purpoſe aforeſaid, and attended the Execution of the ſaid Commiſſion *three* ſeveral *Times* [He means *Seſſions's*] at *Newcaſtle*, and once at *Philadelphia* —[Note, he being infirm, did not go down to *Newtown*, nor yet to *Joppa*, in *Maryland*] That neither the Affirmant, or any of the Plaintiffs Commiſſioners, to his Knowledge or Belief, *ever* did, *at any Time*, or in any manner, *endeavour* to retard, avoid, or fruſtrate the Execution of the ſaid Commiſſion; nor did he receive *directly or indirectly*, *at any Time*, from, or on behalf of the Plaintiffs, any Order, Direction, Inſtruction or Intimation to retard, delay, evade, avoid, fruſtrate, or impede the Execution of the ſaid Commiſſion.

Andrew Hamilton [*Lib.* C. *fol.* 775. *Int.* 62. *fol.* 776] That he was appointed one of the Plaintiffs Commiſſioners, and attended all the Meetings of the Commiſſioners that were held on that Buſineſs from time to time (except that on the 3d of *February* 1732) That he *never* received, *directly or indirectly*, any Order, Direction, Inſtruction or Intimation, from, or on behalf of the Plaintiffs, or any of them, to retard, evade, avoid, fruſtrate or impede the Execution of the ſaid Commiſſion——But on the *contrary*, this Deponent and the *reſt* of the Plaintiffs Commiſſioners, were *ſeveral times*, *and very frequently*, while the Execution of the ſaid Commiſſion was depending, *deſired* and very *much preſſed*, by the Plaintiff *Thomas Penn*, and it was his *conſtant* Inſtructions to *this* Deponent and the *reſt* of the Plaintiffs Commiſſioners, to uſe *all* the *Diſpatch* and *Candor* they *poſſibly* could, to carry the ſaid Agreement into Execution ——Says he *never* did, in *any* manner, *endeavour*, *or do any* Act or Thing that he conceived could or would fruſtrate, avoid or hinder the Execution of the ſaid Commiſſions; nor, to the beſt of his Knowledge and Belief, did *any* of the reſt of the Plaintiffs Commiſſioners *endeavour* or *do* any thing to fruſtrate, avoid or hinder the Execution of the ſame Commiſſions.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 62. *Fol.* 561.] That he was appointed one of the Plaintiffs Commiſſioners, and did attend on *all* the Days that the Plaintiffs and Defendant's Commiſſioners met for that Purpoſe, (except the *two laſt* Days of their meeting) That he *never* did receive, *directly* or *indirectly*, from or on behalf of the Plaintiffs, any Order, Direction, Inſtruction, or Intimation to retard, evade, avoid, fruſtrate or impede the Execution of the ſaid Commiſſion; and that, neither he, nor to his Knowledge or Belief any other of the Plaintiffs Commiſſioners, *ever* did, in *any* manner *endeavour* to avoid, retard or fruſtrate the Execution of the ſaid Commiſſion, but on the contrary, *did* all that was in their Powers to execute the ſame.

Note well, We never had any more than our original *ſeven* Commiſſioners; two of which are proved to have been dead, and the *third* come for *Europe*, at the Time we examined our Witneſſes, and we have examined *every one* of the other *four*, who concur preciſely in this general Account at all Times whatſoever——On the other Hand, the Defendant chopt and changed *his* Commiſſioners till he made his original *ſeven* to be *ten* in Number; of thoſe *ten* he has examined *only* three; againſt whom there are many Objections alſo; but as to this preſent Point, they are moſt carefully *aſkt*, and as *cautiouſly* anſwer, that they did not contrive *along with the Defendant* to avoid the Agreement at one *particular* Time, when it was no way *poſſible* for them to have done it, *at that Time*.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 63. *Fol.* 453.] Says that *Samuel Ogle*, *Charles Calvert*, *P. Loyd*, *M. Howard*, *M. T. Ward*, *R. Bennett*, *Benj. Taſker*, *E. Jennings*, *James Harris* and *John Roſs* [ten] were the Perſons who, at *ſeveral* Times, appeared and acted as Defendant's Commiſſioners——And ſays that *none* of the ſaid ſeveral Perſons, in the Opinion and Belief of the Affirmant, did proceed with *Fairneſs*, *Candour* or *Diſpatch*, in the Service mentioned in their Commiſſions——But, on the contrary, did *ſhew an Unwillingneſs* and *Reluctance* to *execute* the Articles of Agreement according to the *plain Meaning* of the ſaid Articles, as the Affirmant, and, he believes, the reſt of the Plaintiffs Commiſſioners underſtood them, by uſing *many* Arts and Methods to *prevent*, *fruſtrate*, *evade* and delay a fair Execution of the ſame.

* *James Steel* [*Lib.* C. *Fol.* 559. *Int.* 63. *Fol.* 563.] He alſo names the ſame *ten* Perſons who appeared and acted as the Defendant's Commiſſioners,——and ſays he verily believes the ſaid Commiſſioners, or *any* of them, did *not* conduct themſelves with *Fairneſs*, Candour or *Diſpatch* in carrying the ſaid Articles into Execution; but, as it *appeared* to the Affirmant, did *ſhew an Unwillingneſs and Reluctance* to execute the ſame according to the *plain Directions* of the ſame Articles,——and alſo that they the Defendant's Commiſſioners did *uſe ſeveral Arts and Methods*, to *delay*, prevent and evade the Execution of the ſaid Articles, and marking the Lines and Bounds therein mentioned, purſuant to the true Intent and Meaning of the ſame Articles.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 63. *Fol.* 161.] Names the ſame *ten* Perſons who appeared and acted as the Defendant's Commiſſioners at the Meetings where he was preſent——Says that *all* the Commiſſioners on the Part of *Maryland* appeared to him to have ſubjected *their* Conduct, in a *very great* meaſure, if not *intirely*, to the Direction of the ſaid Governor *Ogle*—And it alſo *appeared* to this Affirmant, from the *firſt* Time of the Meeting at *Newcaſtle* in *October*, *from the general Conduct* of the ſaid Governor *Ogle*, that *he* had *fully purpoſed* and *deſigned* to *evade* the Execution of the ſaid Articles.

Samuel Preſton [*Lib.* B. *Fol.* 312. *Int.* 109. *Fol.* 444.] That the Commiſſioners of the Plaintiffs and Defendant, to the beſt of his Memory, met 25 or 26 *Days* about the Execution of the ſaid Agreement of *May* 1732. The *firſt* of which Days was 6th *October* 1732, and the *laſt* 24 *November* 1733——Says he verily believes there was *ſufficient Time*, during ſuch their Meetings, and before 25 *December* 1733, to have run and marked out the *Circle*, and *all the Lines* directed by the ſaid Agreement to be run, if no Difference, or *pretended* Difference in Judgment had ariſen amongſt the Commiſſioners——which running and marking out the ſaid Circle and Lines, the Affirmant ſays, was *not obſtructed or hindred* by the *Non-Attendance* of the Commiſſioners, on *either* Side; but, as it *appeared* to the Affirmant from the *general Actings and Behaviour* of *all* the Defendant's Commiſſioners, was *wholly owing* to an *Unwillingneſs* in *all* the Defendant's Commiſſioners to run or mark out the ſaid Circle and Lines——And further ſays that he, from time to time, *always* met, with full Intention and Deſign to *execute* the ſaid Agreement, and verily believes, from the *general Conduct*, Actings and Behaviour of *all the reſt* of the Plaintiffs Commiſſioners, that *they* from time to time, always met with the *ſame* Deſign and Intention.

James Logan [*Lib.* B. *Fol.* 76. *Int.* 109. *Fol* 212.] Says the like, that there was *abundant* Time to have run and markt the Circle and all the Lines, if no Difference, or *pretended* Difference in Judgment had ariſen amongſt the Commiſſioners——And ſays the running out the Circle and Lines was *not prevented*, by *Non-Attendance* of the Commiſſioners on *either* Side—But was *occaſioned*, as he believes, by the long *Adjournments* preſt and *inſiſted* on by the *Defendant's* Commiſſioners; owing (in his Opinion) to a *formed Reſolution* on *their* Parts to *evade* the Execution of the Agreement, by *any* means but *that* of failing in their Meetings according to their Adjournments——He likewiſe ſays, that he *always* had a *full Intention* to execute the Agreement.———And it was *apparent* to him, and he verily *believes*, from the Actings and general Behaviour of the reſt of the *Penſilvania* Commiſſioners, that *they* met and acted from time to time, with full Intention to execute the ſaid Agreement.—And it was *apparent* to him, and he *verily believes*, from the *Actings and general Behaviour* of the *Maryland* Commiſſioners, during all the ſaid Meetings he was at, (which were on *nineteen* of the ſaid Days) that *they* did *intend* to *delay* and *avoid* the Execution of the ſaid Agreement.——And the Reaſons for his Belief are that they *early* alledged *they* could not find a *Center*, and then aſſerting and inſiſting that by a Circle *expreſly directed* to be run at the *Diſtance* of 12 *Engliſh* Miles *from Newcaſtle*, was *intended* a Circle of *leſs than two Miles* Diſtance from *Newcaſtle*.

Andrew Hamilton [*Lib.* C. *Fol.* 775. *Int.* 109. *Fol.* 779.] That the Commiſſioners of the Plaintiffs and Defendant, who acted in the Execution of the Agreement *May* 1732, under the Com-
780 miſſions mentioned in his Anſwer to the 62d Interrogatory, met on that Buſineſs on 26 *ſeveral Days*. The firſt of which was the ſixth *October* 1732, at *Newtown* in *Maryland*, and the *laſt* on *the 24th November* 1733, at *Newcaſtle* Town, according to the beſt of this Deponent's Remembrance. And ſaith that *there was*, in his Judgment and
781 Belief, *abundantly more than ſufficient Time*, during ſuch the ſaid Meetings of the ſaid Commiſſioners, and before the 25th Day of *December* 1733, to have run and *marked* out the *Circle*, *and all the Lines* directed to be run and markt out, by the ſaid Agreement, if *no Difference* or *pretended* Difference in Judgment, concerning the ſame, had *ariſen* amongſt the ſaid Commiſſioners. And ſaith that he *hath been credibly informed*, by Surveyors and Perſons, who are well acquainted with, have been much converſant in, ſuch
782 Buſineſs, and this Deponent *believes* it to be true, that two Months, and a little more, at a proper Seaſon of the Year, would be *ſufficient* for the running and marking out the Circle and Lines aforeſaid. And ſaith that *running out of* the ſaid Circle and Lines *was not prevented* by the *Non-Attendance* of the ſaid Commiſſioners, on *either* Side; and that
783 the ſaid Commiſſioners, on *either* Side, or a Quorum of them, did *not abſent* themſelves, or ſtay from *any* of the ſaid Meetings, beyond the Time of Adjournment, above an *Hour* or *two at moſt*. That the *Reaſon aſſigned, by the Defendant's Commiſſioners*, for their not joining with the Plaintiffs Commiſſioners in running out the ſaid Circle and Lines was, their *not agreeing* with the Plaintiffs Commiſſioners *in their Opinion* or Conſtruction of the *Meaning* of the ſaid Articles of Agreement of *May* 1732; but, *it was*
784 *apparent* to the Deponent, *that the Unwillingneſs* of the Defendant's Commiſſioners to carry the ſaid Agreement into Execution, *was the true Cauſe* or Reaſon why the ſaid Circle and Lines were not run and markt out by the 25th Day of *December* 1733. And ſaith that he is *well ſatisfied that all* the Commiſſioners on the Part of the Plaintiffs, *always* met and acted, from time to time, with *full Intention* to *execute* the ſaid Agreement; and on the *contrary*, that it was *apparent* to him, and he verily *believes*, from the *Tenor*
785 *of the Actings*, and *general Behaviour* of the Commiſſioners who acted from time to time on the Part of the Defendant in the Execution of the ſaid Commiſſion and Articles of Agreement, *never intended* to carry the ſaid Agreement into Execution. And that the *Reaſons* for ſuch this Deponent's Belief therein are, as follows, *viz.* That *Samuel Ogle* Governor of *Maryland*, and *Patrick Gordon* Governor of *Penſilvania*, having agreed that the Commiſſioners on each Side ſhould meet at *Newtown*, in *Kent* County in
786 *Maryland*, on the 6th of *October* 1732, in order to carry the ſaid Articles of Agreement into Execution, the ſaid *Samuel Ogle*, *Philemon Loyd*, *Charles Calvert*, *Michael Howard*, *Richard Bennett*, *Matthew Tilghman Ward* Eſqs; Commiſſioners on the Part of the Defendant; and the ſaid *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, this Deponent, *James Steel* and *Robert Charles*, Commiſſioners on the Part of the Plaintiffs, met, accordingly, at *Newtown* aforeſaid on the ſaid 6th of the ſaid *October*, and agreed to meet
787 again the next Day, being the 7th of the ſaid *October*, at the ſame Place, and met accordingly on the ſaid 7th Day of *October*, and the *Articles* of Agreement between the Plaintiffs and Defendant, and the *Commiſſion* to the before-named Commiſſioners on the Part of the Plaintiffs, and alſo the Commiſſion to the before-named Commiſſioners on
788 the Part of the Defendant, *being produced and read*, the ſaid Mr. *Ogle*, on the Part of the Defendant, *objected* to the *Validity* or Sufficiency of the ſaid Commiſſion from the Plaintiffs to the ſaid *Patrick Gordon*, *Iſaac Norris*, *Samuel Preſton*, this Deponent, *Robert Charles* and *James Steel*, and alſo to *James Logan* Eſq; directed, *for want of proper Perſons being joined* in the granting of that Commiſſion, and ſhewed an *Indorſement*, made upon the Defendant's Part of the ſaid Articles, which Indorſement was ſigned, as this Deponent remembers, with the Names *Letitia Aubrey*, *William Penn*, and others, purporting *their* Conſent and Approbation of the ſaid Articles of Agreement, and that they
789 would do nothing to fruſtrate or make void the ſame, or to ſuch Effect; and *therefore*, *urged* that the Perſons, ſigning the ſaid Indorſement, *ought to have joined in granting* the ſaid Commiſſion to the ſaid Commiſſioners on the Part of the Plaintiffs, and, for not having ſo done, the ſaid Commiſſion was *not ſufficient* to authoriſe the Plaintiffs Com-
790 miſſioners to carry the ſaid Articles into Execution; to which it was anſwered, by the Plaintiffs Commiſſioners, that, tho' the Defendant might think it proper, for his own Security, or any other Reaſon, to take ſuch an Indorſement as aforeſaid, from the ſaid *Letitia Aubrey* and *William Penn*, or any others, not being Parties to the ſaid Articles, it could not affect the ſaid Commiſſion granted by the Plaintiffs; and much being ſaid, by the Defendant's Commiſſioners, and thoſe on the Part of the Plaintiffs, touching the ſaid Objection, the ſaid Mr. *Ogle* ſaid, at *length*, he would wave the ſame, for *the preſent*; and then, the Commiſſioners proceeded *to conſider what was firſt* to be done, towards carrying the ſaid Articles
791 of Agreement into Execution, and the Plaintiffs Commiſſioners deſiring the ſaid Articles *themſelves* might be read, it was ſaid, by the ſaid Mr. *Ogle*, that there was *no need* of having recourſe *to the Articles*, *for that* the *Commiſſions* on each Side, were the *only Authority* by which the Commiſſioners could act, and they muſt *purſue the Directions* of the *Commiſſions*, *as* their Guide; but without further Argument, it *was agreed* that *the Circle*, about the Town of *Newcaſtle*, was *the firſt Work enjoined* to be done by the ſaid
792 Commiſſions, and thereupon the *Defendant's* Commiſſioners propoſed to adjourn to the 30th of *October*; to which it was ſaid, by the ſaid Plaintiffs Commiſſioners, that *this was the moſt proper Seaſon* of the Year for running and marking out Lines in the Woods, and that they had *brought their Artiſts and Surveyors*, to run the Lines directed to be run, by the ſaid Articles; and therefore propoſed, that the Commiſſioners *might proceed* to run the ſame *accordingly*; but it being alledged, by the Defendant's Commiſſioners, that
793 the *publick Buſineſs* of their Province required *their* Attendance, and that one of their Artiſts, on whom they chiefly relyed, was ſick, therefore, *they* inſiſted *they* could not attend

attend the Buſineſs of running the ſaid Lines *before* the ſaid 30th of *October*. Whereupon, the Plaintiffs Commiſſioners (*tho' unwillingly*) conſented to adjourn to the ſaid 30th of
October, to meet at *Newcaſtle* aforeſaid. *Then* it was moved by the Plaintiffs Commiſſioners, that a *Minute* ſhould be taken of the Meeting of the Commiſſioners and the
794 Adjournment; which was *oppoſed* by the ſaid Mr. *Ogle*, who ſaid it would be *troubleſome* to the Commiſſioners. The Plaintiffs Commiſſioners then propoſed the introducing of
one Clerk, or more, to *take and keep the Minutes* of the Commiſſioners Proceedings, but *this was alſo oppoſed by the Defendant's* Commiſſioners, as a Thing *unneceſſary*, and would
occaſion *great Trouble and Delay* in ſettling ſuch Minutes. *Then*, it was ſaid by the Plaintiffs Commiſſioners, that it *would not appear* that *ever* the Commiſſioners had *met*, upon
795 the Buſineſs mentioned in the ſaid Articles, or that they had adjourned to *any* Day; That, *therefore*, they believed it *abſolutely neceſſary* that *Clerks* ſhould be introduced, as *no*
Perſons were preſent but the Commiſſioners *themſelves*; but this was *abſolutely refuſed* by the Defendant's Commiſſioners as *unneceſſary*. It was *then* inſiſted by the Plaintiffs
Commiſſioners, that a *Minute* ſhould be taken of the Commiſſioners Meetings and Adjournments, and *ſigned by a Commiſſioner* on each Side. This was *long oppoſed* by the De-
fendant's Commiſſioners, but, *at laſt*, it was agreed that ſuch a Minute ſhould be made, and *Michael Howard*, one of the Defendant's Commiſſioners, and *Robert Charles*,
796 one of the Plaintiffs Commiſſioners, were appointed to draw up the ſame, which they accordingly did. And the Commiſſioners being met, in the *Evening* of the 7th of *October*,
at the Houſe of Mr. *James Harris*, where the ſaid Mr. *Ogle* lodged, and the Plaintiffs Commiſſioners having, before-hand, deſired Mr. *David French* and Mr. *James Hamilton*,
then at *Newtown* aforeſaid, to be preſent *in the Room* with the ſaid Commiſſioners, to *be Witneſſes* to the *exchanging of the ſaid Minute*, the ſaid Mr. *Ogle*, ſeeing the ſaid two
797 Perſons in the Room, aſked them *whether they were Commiſſioners?* Whereupon they left the Room, believing, as they ſaid, that it was not agreeable to the ſaid Mr. *Ogle*,
that they ſhould be preſent. Then two Minutes of the ſaid Meeting and Adjournment, of the ſame Tenor and Date, being produced by the ſaid Mr. *Howard* and Mr. *Charles*,
it was *deſired* by the Plaintiffs Commiſſioners that the Commiſſioners, on each Side, might *ſign the ſame*, which *was refuſed* by the Defendant's Commiſſioners. *Then* it was
798 deſired by the Plaintiffs Commiſſioners that the ſaid Mr. *Howard* and Mr. *Charles* might each of them *ſign and exchange* the ſaid Minutes. To which the ſaid Mr. *Howard*
made Anſwer, with *ſome Warmth*, that *he would not ſign*, for he did not know but he might be called to *England* for it. And further ſaith, that a Quorum of the Commiſſioners,
on each Side, met at *Newcaſtle* on the ſaid 30th of *October*, in purſuance of their Adjournment, at the Houſe of *Robert Gordon*, and the Articles of Agreement aforeſaid
799 being read, it was obſerved, by *Samuel Ogle* aforeſaid, that the *Charter* for *Penſilvania*, and the Deeds of Feoffment for *Newcaſtle* being *recited* in the ſaid Articles, he
deſired the ſaid Charter and Deeds of Feoffment might *be produced*; To which it was anſwered by the Plaintiffs Commiſſioners, that *ſo much* of the ſaid Charter and Deeds of
Feoffment *as was neceſſary* for carrying the ſaid Articles into Execution, being *recited* in the ſaid Articles, there was *no Need* of the ſaid Charter and Deeds *themſelves*, upon
800 which it was aſked by the ſaid *Samuel Ogle*, and the Deponent thinks by the ſaid *Michael Howard*, whether any of the Plaintiffs Commiſſioners would give it under their
Hand, for Law, that the Recital of *one* Deed, in *another*, was good Evidence to prove the Deed recited: To which it was anſwered, by the Plaintiffs Commiſſioners, to the
following Effect, That, in the *preſent* Caſe, they *would do ſo*; for, altho' it was *generally true*, that the Recital of one Deed, in another, was *not* a Proof of the recited Deed,
801 yet, the preſent Articles of Agreement, being the *joint Act* of the *contracting Parties*, and they having taken upon them the Knowledge of the Charter and Deeds ſo recited,
That ſame Recital was good Evidence *to the ſaid Commiſſioners*, that there were *ſuch* Charter and Deeds, and that they were *truly recited*, and that the ſaid Charter and Deeds
could not be got nigher than *Philadelphia*, which would occaſion great Delay, that ought to be avoided at *that late* Seaſon of the Year; but the Defendant's Commiſſioners
802 *inſiſting* on a Sight of the ſaid Charter and Deeds, one of the Plaintiffs Commiſſioners was diſpatched to *Philadelphia*, who returning the next Day, the ſaid Charter and Deeds
were, then, produced at a Meeting of the Commiſſioners, held at the ſame Place, and the *recited Parts* of the ſaid Charter and Deeds of Feoffment being *compared*, with the
Charter itſelf, and exemplified Copies of the ſaid Deeds, they were found *to agree*. Then *Copies* of the ſaid *Charter* and *Deeds* of Feoffment were *demanded* by the Defendant's
803 Commiſſioners; to which it was *objected* by the Plaintiffs Commiſſioners, that the Defendant's Commiſſioners *themſelves*, having *compared* the Parts of the Charter and Deeds
of Feoffment, recited in the ſaid Articles, with the ſaid Charter and Deeds, and being found *to agree*, there could be *no Uſe* of Copies of the ſaid Charter and Deeds, *eſpecially*
ſeeing they were *very long*, but *to ſpend Time*, and *delay the Buſineſs* they had met about. And the ſaid Defendant's Commiſſioners were then put in mind of what the ſaid
804 *Samuel Ogle* had ſaid at *Newtown* in *Maryland*, That the Commiſſioners had *nothing to do with the Articles, the Commiſſion being their Authority and Direction:* But this
not being *ſatisfactory* to the Defendant's Commiſſioners, it was at laſt, agreed, that they *ſhould have Copies* of the *Deſcriptive Parts* of the ſaid Charter and Deeds of Feoff-
805 ment, which they accordingly *had*, *ſigned* by ſome of the Commiſſioners for *Penſilvania*; It was *then* offered by the ſaid *Samuel Ogle*, that he obſerved there was *no Direction*
in the ſaid Commiſſions, for finding a *Center*, in order to run the ſaid Circle about the Town of *Newcaſtle*, mentioned in their ſaid Commiſſions. Whereupon it was alledged by
the Plaintiffs Commiſſioners, That the Commiſſioners, being impowered and directed by their ſaid Commiſſions to *run the ſaid Circle*, They, *therefore*, had Power to do *all*
806 that was *neceſſary* for *the running* of the ſame, and *therefore*, to fix the ſaid Center. To this it was replied, by the ſaid *Samuel Ogle*, to the following Effect, That he
had *conſulted* both Lawyers and Mathematicians, and they were of Opinion that *no Circle* could be run, without a *Center*, and that by *their Commiſſions*, *they* had *no* Power to
fix one. It was then ſaid by the Plaintiffs Commiſſioners, that in the *Map*, in the Margin of the ſaid Articles, the *Town* of *Newcaſtle* was laid down, and a *Central* Point
807 fixed, *within* the ſame Town, from which the Circle, deſcribed in the ſaid Map, appeared to be drawn; which, according to the ſaid Articles, ought to be a Direction to the
ſaid Commiſſioners; but, it being anſwered by the ſaid *Samuel Ogle*, That the Town of *Newcaſtle*, being *large*, much depended upon fixing the ſaid *Center*, for if it was
placed at the *extreme* Part of the Town, it might injure the Lord *Baltimore*, and if fixed in ſome *other Part* it might injure the Plaintiffs; It was then urged again, by the
808 Plaintiffs Commiſſioners, that the central Point laid down *in the ſaid Map* for the middle of the ſaid Town, was the beſt Direction the ſaid Commiſſioners could have, and there-
fore the ſaid Plaintiffs Commiſſioners moved that the *Surveyors*, attending, might go and *meaſure* the *ſaid Town*, which was *objected to* by the Defendant's Commiſſioners;
and then it was propoſed by the ſaid *Samuel Ogle*, that the Commiſſioners ſhould *take* a *Walk about* and view the ſaid Town; and the Commiſſioners on both Sides, accord-
809 ingly then walked to ſeveral Parts of the ſaid Town with Surveyors attending them; That upon ſome of the Plaintiffs Commiſſioners *offering to ſhew* the Defendant's Com-
miſſioners the *Extent* of the ſaid Town, the ſaid *Samuel Ogle neglected and diſregarded the ſaid Offer*; That, upon a Meeting of the Commiſſioners, on the next Day, the
ſaid *Samuel Ogle*, *again*, ſaid, that he, having conſulted Lawyers and Mathematicians, who were of Opinion that *they* had *no Power* to *fix* the ſaid *Center*, and he having little
Skill in thoſe Things *himſelf*, he ought to have a Regard for *their* Opinions, or to that Effect; and ſaid, beſides, That the ſaid Town, he underſtood, was *an oblong*, and not
810 *round*, and the Bounds alſo *uncertain*, Therefore, he knew not how they could make ſuch a Circle round the ſame Town; upon this it was *offered*, by the Plaintiffs Com-
miſſioners, to *remove* that Objection, that they ſhould fix the Center at the *Court-houſe*, in the ſaid Town, *which is not one 3d of the Breadth of the ſame Town from the River*
811 *Side*, and therefore (as the Plaintiffs Commiſſioners ſaid) it would be *much to the Advantage of the Lord* Baltimore; To which the ſaid *Samuel Ogle* anſwered, That *they* ought
to be *careful of the Intereſt of the Plaintiffs*, equally with that of the Lord *Baltimore*, and added, that ſome of the Plaintiffs Commiſſioners had ſaid at a former Meeting, that
the *leaſt* Variation from the Articles would make void what they ſhould do by Virtue of their Commiſſions; To this Allegation it was objected, by the Plaintiffs Commiſſioners,
812 that *no ſuch Words*, as the *leaſt Variation* from the Articles, had been uſed; but only, that any Variation from the *expreſs Words of* the Articles, and the *Direction of the Com-*
miſſions, might render void and ineffectual what they ſhould do in purſuance of the ſame. But there being *no expreſs Directions*, either in the ſaid *Articles* or *Commiſſions*, for
fixing the ſaid Center, and the Circle being directed to be run, therefore, the ſaid Plaintiffs Commiſſioners conceived that *ſufficient Power* was given to the Commiſſioners to fix
813 the ſaid Center; and as the ſaid Center, propoſed, was for the Advantage of the *Defendant*, there could be no *Apprehenſions* of his complaining, and the Commiſſioners on the
Part of *Penſilvania* propoſed that they would procure *an Aſſurance* from one of their Proprietors of *his acquieſcing* in ſuch Center, ſo to be fixed; but upon this, the ſaid Mr.
Ogle ſaid, we may, thereby, injure ſome *other* People who have *Freeholds* bordering upon the Circle, wherever it ſhould fall: To this it was ſaid by the Plaintiffs Commiſſioners,
814 That the *Commiſſioners* fixing a Center could injure ſuch other Perſons *no more* than if ſuch Center was fixed by the *Plaintiffs and Defendant themſelves*, who nobody denied,
had *the Right* of doing ſo; upon which Mr. *Ogle* ſaid, let us wave the Center, *for the preſent*, and talk a little about the *Circle*. To which, it was anſwered by the Plaintiffs
Commiſſioners, that it would be *to no Purpoſe* to talk about the *Circle*, till they had agreed upon the *Center*, ſince it was admitted that *no Circle* could be run *without a Center*;
815 but Mr. *Ogle* proceeded to aſk the Plaintiffs Commiſſioners what *they* underſtood were the *Dimenſions* of the Circle, then propoſed to be run? To which the Plaintiffs Com-
miſſioners anſwered, that they underſtood the Circle, mentioned in the ſaid Articles and their Commiſſion, to be a Circle of 12 Miles *Diſtance from the Town* of *Newcaſtle*.
Whereupon Mr. *Ogle* ſaid that *the* Circle whoſe Circumference was *only* twelve Miles, and much more was ſaid by the Defendant's Commiſſioners to the ſame Purpoſe; but the
816 Circle was, as he conceived, a Circle whoſe *Circumference* was *only* twelve Miles, and much more was ſaid by the Defendant's Commiſſioners to the ſame Purpoſe; but the
Plaintiffs Commiſſioners inſiſting that the *Articles* of Agreement, being *plain*, would admit of *no Conſtruction*, *different* from the *expreſs Words*, which Words were (a Circle at the
Diſtance of 12 *Engliſh Statute Miles from the Town* of Newcaſtle.) Upon this Mr. *Ogle* aſked the Plaintiffs Commiſſioners, how they conceived a *Circle* of thoſe *Dimenſions*,
817 could be run in the *Woods?* And ſaid that for *his* Part, he thought it *impracticable*. To which the Plaintiffs Commiſſioners anſwered, that, if *that* was the Opinion of the
Defendant's Commiſſioners, *then* they the Plaintiffs Commiſſioners *underſtood them very well*, that the ſaid Articles were *not to be carried into Execution at all*; and much Time
being ſpent in Debates, upon *this* Subject, it was *at laſt* propoſed by Governor *Ogle*, That as the Commiſſioners on each Side, differed *ſo much in* Opinion, and the Lord
Baltimore being ſoon expected in his Province of *Maryland*, that *they ſhould adjourn*, in order to *have his Lordſhip's Directions* for the fixing of a Center; but this was oppoſed
818 by the Commiſſioners on the Part of *Penſilvania*, who ſaid that the *Seaſon* of the Year for running Lines in the Woods was *far advanced*, that they had brought their *Artiſts*
with them, *expecting* to proceed upon the Work, as they had done at their firſt Meeting at *Newtown*, and that it was well known to *every* body, that after the 10th or 20th of
December, the Weather was *too ſevere*, for *any* Perſons to go and continue running Lines in *the Woods*, for any *long* Time, as the Perſons who were to do this Work would
819 be *obliged to do*; and therefore an Adjournment would be *very inconvenient*; but the Commiſſioners of *Maryland inſiſted*, that they knew no *more likely* Way to forward the
Work then before them, than firſt to *receive the Lord* Baltimore's *Directions* for the finding *a Center*, which *they* conceived they had *no* Power to do *themſelves*; upon this, the
820 Plaintiffs Commiſſioners took ſome *ſmall* Time to conſider of the propoſed Adjournment, and in few Hours, the Commiſſioners of each Side met again, and it was ſaid by the
Plaintiffs Commiſſioners that *they* could not agree to *any* Adjournment, till the Defendant's Commiſſioners had named *the Day*, and if it was a ſhort Adjournment, *probably* that
the Plaintiffs Commiſſioners *would agree* to it; and much being ſaid upon this Subject, the Commiſſioners of *Maryland*, at *laſt* mentioned the *firſt of February*, which the Plaintiffs
Commiſſioners deſired time to conſider of; and then, they obſerved to the Defendant's Commiſſioners, that, as there had been *no Minutes taken* of the Proceedings that had paſſed
821 amongſt them, and that tho' the Buſineſs which they were upon, was of a *publick* Nature, yet *Clerks* had been *refuſed* to be introduced, and no Perſons *admitted* to hear, or be privy
to, *any* of their *Debates*, they *again inſiſted* upon having *Clerks* introduced, and *Minutes taken* of their Proceedings, which they conceived *abſolutely neceſſary*, that it might appear
they *had met* upon the Buſineſs which they were impowered to tranſact by virtue of their Commiſſions; but this was, *again*, *abſolutely refuſed* by the Defendant's Commiſſioners, as
822 *unneceſſary*, ſaying that great *Confuſion and Trouble* would ariſe by the Clerks differing in their manner of taking ſuch Minutes, and Mr. *Ogle* likewiſe then ſaid, that they
would *own* before any Body, they *had met* on this Buſineſs; to which the Plaintiffs Commiſſioners replied, that there would be no Miſunderſtanding, or Differences of
that kind, amongſt the Clerks, as they would be preſent with, and *under the Directions* of the Commiſſioners; but not being able to obtain the Conſent of the Defendant's
823 Commiſſioners to have *Clerks*, or *any other* Perſon preſent at their Meetings, they took Time to conſider of the Adjournment, till next Day; and, in the mean time, ha-
ving obſerved amongſt themſelves, with *great Concern*, the *Arts and Methods* uſed by the Defendant's Commiſſioners to *evade and delay* the Execution of the ſaid Articles, and
their *affecting ſo much Secrecy*, at their Meetings, ſo *as to admit no Perſons to be preſent* beſides the Commiſſioners, it was reſolved, amongſt the Plaintiffs Commiſſioners,
824 that a *Paper ſhould be drawn* up (from the Minutes kept by the Plaintiffs Commiſſioners) of the *ſeveral* Tranſactions of the Commiſſioners from their *firſt* Meeting, to
be *read* at the *next* Meeting of the Commiſſioners on *both* ſides, and the ſame was drawn up, accordingly, and *read to the Defendant's Commiſſioners the next Day*; and
at the ſame Time it was deſired that they would *make their Objections*, if they had *any* againſt *the Truth* of it; To which Mr. *Ogle* ſaid, that the Plaintiffs Commiſſioners
825 might keep *what* Minutes they pleaſed, but if he had had the drawing up of that Paper, he could have ſet the *Arguments* of the ſaid Defendant's Commiſſioners in a fairer
Light; and then, one of the Defendant's Commiſſioners produced a Paper, which was ſaid to be ſome Minutes kept by them, and read the ſame, purporting that the Com-
miſſioners on both ſides *had met* at *Newcaſtle*, in order to execute the Articles, or run the Circle, but, *Difficultys ariſing*, they had agreed to adjourn; but the Plaintiffs
826 Commiſſioners *objected* to this as being very *unſatisfactory*, and *far from containing what* had paſſed between the Commiſſioners, and the *Reaſons* of their Adjournment;
Upon which Mr. *Ogle* pulled out a Paper, and after reading the ſame, ſaid, Gentlemen, What do you think of that? Which Paper was to the Effect following, *viz.*
That the Plaintiffs Commiſſioners, or ſome of them, had declared it *for Law*, that the *Recital* of the Charter for *Penſilvania* and the Deeds of Feoffment, *in the Arti-*
827 *cles*, tho' *falſe*, yet were *concluſive* to the Parties? To which it was anſwered by the Plaintiffs Commiſſioners, that *no ſuch Words had been uſed* by them, or *any* of them;
for that they could not ſuppoſe that the Parties to the ſaid Articles, (who were ſo largely intereſted and concerned in the Conſequence) would make any *falſe* Recitals there-
in, which muſt be ſo much to the Prejudice of one, or the other, of them; and then appealed to the others of the *Maryland* Commiſſioners, whether the Words uſed
by the Plaintiffs Commiſſioners were not to the following purport, *viz.* That the Recitals of one Deed, in another, is *not generally*, any Evidence of the Deeds recited,
828 but that, in the *preſent* Caſe, as the Articles of Agreement were the Act of *both* contracting Parties, we muſt preſume that there *were ſuch Deeds*, and that they were *truly*
recited, and that the Commiſſioners are to be concluded *by them*; which the other *Maryland* Commiſſioners ſeeming to allow, the ſaid Mr. *Ogle* put up the ſaid Paper into his
Pocket again, *without* ſaying any more; and then, in *Confidence* of Lord *Baltimore*' Honour, and *in hopes* that he *would give* Directions to his Commiſſioners to proceed
829 in the Execution of the ſaid Articles, the Plaintiffs Commiſſioners *agreed* to the Adjournment to the 1ſt of *February* following, at *Newcaſtle* Town aforeſaid.——That
a *Quorum* of the Commiſſioners met at *Newcaſtle*, on the 1ſt of *February* 1732, and ſome of the Defendant's Commiſſioners being arrived in the ſaid Town the Day be-
fore, the Plaintiffs Commiſſioners, having ſet out early in the Morning, arrived *late at Night*; that the ſaid *Samuel Ogle* acquainted the Plaintiffs Commiſſioners with the
830 great *Care* the Defendant's Commiſſioners had taken to come early, notwithſtanding the great Diſtance, and the Rigour of the Seaſon; but you, Gentlemen, (ſpeaking to
the Plaintiffs Commiſſioners) ſeem to be fatigued with coming 40 Miles only; and therefore *let us adjourn* to To-morrow Morning; to which it was anſwered, by
the Plaintiffs Commiſſioners, that, unleſs we meet *now*, with a *better* Diſpoſition to do Buſineſs than *formerly*, a *ſmall Part of an Afternoon will be no great Loſs*. That
831 when the Commiſſioners met the next Day, the ſaid *Samuel Ogle* acquainted the Plaintiffs Commiſſioners, that they were *now* met to proceed upon Buſineſs, and *the*

Thing

Thing that was before them *was the Circle*, about the Town of *Newcaſtle*, and that he would be glad to know what the Plaintiffs Commiſſioners thought of the *Dimenſions* of that Circle, or Words to that Effect? To which it was anſwered by the Plaintiffs Commiſſioners, that the Defendant's Commiſſioners could not forget that the Reaſon of their former *long Adjournment* was that *they* the *Maryland* Commiſſioners *according to their own Requeſt*, might have an Opportunity, upon their Lord's Arrival, to *re-*
832 *ceive Directions for fixing* a Center of the ſaid Circle, and carrying the ſaid Articles into Execution. To which the ſaid *Samuel Ogle* replied, That Lord *Baltimore had* delegated *his* Power to his Commiſſioners to carry the ſaid Articles into Execution, and therefore, he *would not interfere*; and thereupon, enſued long Debates, concerning the *Dimenſions* of the Circle; the Defendant's Commiſſioners inſiſting that the Circle, *intended* to be run, was the Circle mentioned in the Deed of Feoffment for the Town
833 of *Newcaſtle*, whoſe Diameter was ſomething *leſs than four Miles*; and the Plaintiffs Commiſſioners inſiſted that the Circle to be run, was the Circle *mentioned* in *the Articles of* Agreement and the Commiſſions, of the ſaid Commiſſioners, which was a Circle to be run at the *Diſtance* of 12 *Engliſh* Statute Miles *from the Town* of *New-caſtle* aforeſaid. That after many Debates upon that Subject, it was propoſed by the Defendant's Commiſſioners, that the Commiſſioners on both ſides, ſhould take the
834 Opinion of *Mathematicians*, concerning the *Dimenſions* of the ſaid Circle; to which it was ſaid, by the Plaintiffs Commiſſioners, that the *Words* of the Articles and Commiſſions being *expreſs and plain*, there could be *no Uſe* for the *Judgment* of Mathematicians upon the Subject; and as the ſaid *Samuel Ogle* had formerly objected againſt *any* Variation, when the Subject of the *Center* was debated, even tho' there were *no expreſs* Directions *in that* Caſe, it would be *much more dangerous* to de-
835 part from a *plain and poſitive Deſcription* and Direction in the *preſent* Caſe; but the Defendant's Commiſſioners inſiſting, ſtill, upon taking the Opinions of Mathematicians, upon the *Dimenſions* of the Circle, they were deſired, by the Plaintiffs Commiſſioners to reduce their Queſtion to writing, which they long *refuſed* to do; but at *laſt* ſtated the Queſtion, concerning the *Dimenſions* of the Circle, upon the Words of the Deed of Feoffment; and it being requeſted that ſome of the Defendant's Commiſſioners
836 ſhould *ſign* the ſaid Queſtion, they *repeatedly refuſed* ſo to do; upon this, ſome of the Plaintiffs Commiſſioners conſidering that, as no *Clerks* had been introduced, nor any Perſons admitted to *be preſent* at the ſaid Debates, and remembring that *none* of the Commiſſioners at *Newtown* would *ſign* the Minute of Adjournment, they there-fore, did believe that *all this was done* with *intent* that there *ſhould be no Evidence* of what had paſſed among the Commiſſioners concerning the Execution of the ſaid Articles; and the Plaintiffs Commiſſioners conſidering the *Impropriety* of their being made uſe of as *Witneſſes* againſt their Fellow Commiſſioners for the Defendant, they,
837 *therefore*, inſiſted that, at the Time they gave this Anſwer, to the Queſtion ſtated by *the* Defendant's Commiſſioners, the Mathematicians ſhould *be preſent*, to ſupport their own Opinions, if needful, which was long *oppoſed* by the Defendant's Commiſſioners, but the Plaintiffs Commiſſioners inſiſting on it, that *no Anſwer* ſhould be given to the ſaid Queſtion, *unleſs they might have the Mathematicians preſent*, it was, at *length* agreed to, by the Defendant's Commiſſioners; and it being late at Night, the
838 Commiſſioners adjourned, *ſome of them ſaying to ten*, others *eleven* of the Clock the next Day. That the Commiſſioners of the Plaintiffs meeting afterwards, *that Night*, agreed to reduce *to writing* what they had to ſay in Anſwer to the ſaid Queſtion, a rough Draft was prepared, by *one of the Clock next Morning*. That the ſame Morning, being cold, and the Perſon employ'd to draw the ſaid Anſwer being indiſpoſed, it required ſome conſiderable Time for the Plaintiffs Commiſſioners to examine and approve of it, which being done, with *all the Expedition* they could, *two Perſons* were employed *to copy it*, whilſt the Deponent *dictated to them*, and this with a
839 *Deſign to* read and deliver one Copy to the Defendant's Commiſſioners *at the Meeting* of the Commiſſioners in the *Preſence of the Mathematicians*, and the *other to be kept and Witneſſed* by the *Mathematicians propoſed to be preſent*. That whilſt the ſaid Anſwer was copying, three of the Plaintiffs Commiſſioners were ſent, to meet the Defendant's Commiſſioners in the Court-Houſe, the uſual place of Meeting; but in tranſcribing the rough Draft of the ſame Anſwer, there was occaſion for a *Sight* of
840 the ſaid Articles of Agreement, and one *John Georges* was ſent, for them, to *James Steel*, one of the ſaid *three* Commiſſioners who had the Cuſtody of them; who left the Commiſſioners that had met, and brought the ſaid Articles to the Commiſſioners that were preparing the *ſaid Copies*; and the Drafts of the ſaid Anſwer being *near* finiſhed, the ſaid *James Steel* ſtaid until they ſhould be finiſhed, that the other two Commiſſioners might go, *with him*, on his Return; and juſt when the ſaid
841 Copies were finiſhed and examined, and the two Commiſſioners and Mathematicians were ready to go to meet the Defendant's Commiſſioners, *Iſaac Norris* and *Samuel Preſton* came into the Room to this Deponent, and ſaid, that the ſaid *Samuel Ogle* had complain'd of his Waiting ſo long for a *Quorum* of the Plaintiffs Commiſſioners beyond the Hour of Adjournment, and had *left* the Place of Meeting; which occaſioned *great Concern* in all the Plaintiffs Commiſſioners, and ſome of their Number
842 were directed to wait on Governor *Ogle*, and the other Commiſſioners of the Defendant, and acquaint them, that the Non-Attendance of the Plaintiffs ſaid Commiſſioners at the *preciſe* Hour, did not proceed from *any want of reſpect* to the Defendant's Commiſſioners, or from *any unwillingneſs* to attend at the Hour appointed, but *meerly from an Accident*, and to requeſt the ſaid Defendant's Commiſſioners to reſort to the Court-Houſe their uſual Place of Meeting, and the Plaintiffs Commiſſioners would gladly wait on them. That the Perſon, who was directed to wait on the ſaid Commiſſioners after Departure, returned and ſaid that he had acquainted the ſaid Go-
843 vernor *Ogle* accordingly, and that he replied he muſt conſider of it. That this Deponent has heard and believes, that *all* the Commiſſioners on both ſides (except this Deponent who was indiſpoſed) dined together on *that Day*. That the Defendant's Commiſſioners *after Dinner* repaired to the Houſe in the ſaid Town where Governor *Ogle* lodged. That the Plaintiffs Commiſſioners meeting together, agreed to wait upon the Defendant's Commiſſioners at Mr. *Ogle*'s Lodgings, to excuſe their Non-Atten-
844 dance in the Forenoon, at the Hour appointed, and to requeſt them to meet the Plaintiffs Commiſſioners at the Court-Houſe *that Afternoon*, and four of the Plaintiffs Commiſſioners went ~~accordingly~~, and the Deponent followed, as ſoon as he could get into his Chaiſe; That, upon the Deponent's coming to the ſaid Mr. *Ogle*'s Lodgings, where the ſaid Mr. *Ogle*, Mr. *Charles Calvert*, and Mr. *Edmund Jennings*, *three* of the Defendant's Commiſſioners, were in Company with *Iſaac Norris*, *Samuel Preſton*, *James Steel*, and *Robert Charles*, four of the Plaintiffs Commiſſioners, and the ſaid *John Georges*, the ſaid Mr. *Edmund Jennings*, *upon the Deponent's coming in*, left the Room,
845 and the ſaid Mr. *Ogle* ſaid he was very ſorry to ſee this Deponent *ſo lame*, and aſked him to ſit down; that the Deponent expreſſed his Concern that *his* Indiſpoſition had given any Diſappointment to the Meeting of the Commiſſioners *that Morning*; to which the ſaid Mr. *Ogle* replied, That he had been *very unwilling* to give this Depo-nent any uneaſineſs, and had offered to come to this Deponent's Lodging, which the other of the Plaintiffs Commiſſioners had declined. That then, the Deponent ſaid, that
846 the conſidering and framing an Anſwer to the Queſtion put by the Defendant's Commiſſioners the Night before, with this Deponent's Indiſpoſition, and the *Lameneſs* of one of the Mathematicians, had prevented the Plaintiffs Commiſſioners Attendance at the Time appointed, but that they had provided *an Anſwer*, ſuch as it was, to their Queſtion, which he might ſee, if he would, and thereupon, this Deponent received from the Hand of the ſaid *John Georges*, one *fair Copy* of the *ſaid Anſwer*, ſigned
847 by five of the Plaintiffs Commiſſioners, and delivered the ſame to the ſaid Mr. *Ogle*, who looking upon the Beginning and End of it, *offered to return* it to the Depo-nent, who ſaid that that was deſigned for him, and the Plaintiffs Commiſſioners had another of the ſame. Whereupon, the ſaid Mr. *Ogle* laid the ſame down upon a
848 Chair, by him. That then the Deponent proceeded to acquaint the ſaid Mr. *Ogle*, and Mr. *Calvert* (the ſaid *Jennings* having left the Room, as this Deponent verily believes, that *there might not be a Quorum* of the Defendant's Commiſſioners preſent with the Plaintiffs Commiſſioners) with the Sentiments and *Deſires* of the *Penſilvania* Commiſſioners, and that they believed themſelves *hardly uſed* in having an Attempt made to break off the Meetings of the Commiſſioners, becauſe the Plaintiffs Com-
849 miſſioners had delayed meeting an Hour, or an Hour and an half, beyond the Time adjourned to. That the Plaintiffs Commiſſioners had waited *as long* for the De-fendant's Commiſſioners, *the Day before*, who appeared to have nothing to do, but to walk about in the Room, and that, *without the leaſt complaining*, and therefore they were in hopes that *that* might excuſe their Abſence that Morning, and hoped that the Defendant's Commiſſioners would *now meet them*, to proceed upon the Buſineſs
850 before them; to which the ſaid Mr. *Ogle* replied, That, if they *had got any Advantage* to the Lord *Baltimore* by the Failure of the Plaintiffs Commiſſioners, he could not anſwer to give it up. That the Lord *Baltimore* might do what *he would*, but he queſtioned, whether *he* the ſaid *Samuel Ogle* had it in his Power to forego that Advantage, or Words to that Effect. Upon which, the Deponent ſaid, that he was *well aſſured* that the ſame was *no ſuch Failure* in the *Penſilvania* Commiſſioners,
851 by which any Forfeiture *could* ariſe to the Lord *Baltimore*, and that in the Execution of Commiſſions, wherein more Form and Strictneſs were required than in *this*, the Failure of an *Hour or two*, if there was an offer to meet *within the Day*, had not been judged ſuch a Fault as to determine the Commiſſion; and that he this Depo-nent *was ſure* the Defendant's Commiſſioners would not *rely* on the ſaid Failure, and *again* jointly with the other of the Plaintiffs Commiſſioners *invited* the ſaid Governor *Ogle* and the ſaid Mr. *Calvert* to *meet* the Plaintiffs Commiſſioners with the reſt of the Defendant's Commiſſioners, at the Court-Houſe aforeſaid, when the Plain-
852 tiffs Commiſſioners would be ready to wait for them. But Mr. *Ogle* ſaid *there is not a Quorum* of our Commiſſioners *here*; that he was no Lawyer, and was not uſed to ſpeak upon ſuch Points, and continued in his former Opinion, that if his Lordſhip had gained any *Advantage* by the Plaintiffs Commiſſioners Default, he could not an-ſwer it to him to give it up, or Words to that Effect; upon this Deponent ſaid, that, conſidering the *former Conduct* of the Defendant's Commiſſioners, it was no ſurprize to him to find them ſo *ready* to break off the Execution of the Articles, upon *any* pretence, how *ſmall* ſoever, and thereupon left the Room with the other *Penſilvania*
853 Commiſſioners, who going together to their own Lodgings, agreed that *Notice* ſhould be given to the *Maryland* Commiſſioners, to meet them at the uſual Place at ſix o'Clock *that Evening*, which this Deponent had heard and verily *believes* were ſerved upon a *Quorum* of the Defendant's Commiſſioners, but tho' the Plaintiffs Commiſſioners did accordingly *attend*, yet, *none* of the Defendant's Commiſſioners met them; and thereupon the Plaintiffs Commiſſioners cauſed *other Notices* to be ſerved, upon a *Quorum* of
854 the Defendant's Commiſſioners (as this Deponent has heard and believes) to meet the Plaintiffs Commiſſioners on the *Monday Morning* following, and the Plaintiffs Com-miſſioners accordingly attended, on the ſaid *Monday Morning*, but none of the ſaid Defendant's Commiſſioners met them, they being ſet out from *Newcaſtle* aforeſaid *the Day before*, on their Journey back to *Maryland*. And the Deponent further ſaith that, ſoon after this, the ſaid Governor *Gordon* laid before the *Penſilvania* Commiſ-ſioners, a Letter which *he had received* from the Lord *Baltimore*, complaining of the Conduct of the *Penſilvania* Commiſſioners, and therein (reſerving to himſelf any *Ad-*
855 *vantage* he might have gained by this Failure) gave them *Notice* to meet his Commiſſioners at *Joppa* in *Maryland*, on the 7th of *May* then next following; and there-upon the *Penſilvania* Commiſſioners upon peruſing the ſaid Letter, being of Opinion that the Lord *Baltimore* by the ſaid Articles of Agreement had *no power* to give
856 ſuch *Notice*, immediately diſpatched a Meſſenger, with a *Notice* to his Commiſſioners, dated 28th *March* 1733, to meet them at the Town of *Newcaſtle* on 10th *April* then next, in Order to proceed upon the Execution of the ſaid Articles, which Notice was ſerved upon 5 or 6 of the Defendant's Commiſſioners, as this Deponent verily believes. And the Deponent ſaith that, upon the Return of the ſaid Meſſenger the *Penſilvania* Commiſſioners received *Notice* from the *Maryland* Commiſſioners, to meet them at *Joppa aforeſaid on the ſaid 7th of* May; that a *Quorum* of the *Penſilvania* Commiſſioners attended at *Newcaſtle*, on the ſaid *16th Day of* April, in purſuance of their Notice given
857 to the Defendant's Commiſſioners, but the Defendant's Commiſſioners did not meet them. And the Deponent further ſaith that, afterwards, five of the Plaintiffs Commiſſioners went, and met a *Quorum* of the Defendant's Commiſſioners at *Joppa* aforeſaid, on the ſaid 7th of *May*; that the Commiſſioners being met and Mr. *Ogle* taking Notice there was a Gentleman *in the Room beſides the Commiſſioners*, Mr. *Jennings* ſaid, perhaps he is a Commiſſioner; to which the Deponent made Anſwer to the following Effect,
858 That the ſaid Perſon was *not* a Commiſſioner, but a Gentleman of *Worth*, who had accompanied the Plaintiffs Commiſſioners down thither; That the Buſineſs they were met about, was of a *publick* Nature, and that, as the Conduct of the Plaintiffs Commiſſioners at *Newcaſtle*, had been much *miſrepreſented*, and they had been *refuſed Clerks*, or any Perſon to be *preſent* at their Meetings, they *inſiſted* that that Gentleman ſhould *continue* in the Room; to which Governor *Ogle* replied, that he had ſaid formerly, that Clerks
859 were unneceſſary, and was of the *ſame Opinion ſtill*, but had *not refuſed* to admit other *Perſons* to be preſent at their Meetings; Upon which, he was put in mind by the *Penſil-vania* Commiſſioners of his Conduct at *Newtown*, where he *declined exchanging the Minutes* of Adjournment, till *David French* and *James Hamilton*, *who were introduced as Witneſſes*, *had left the Room*, as herein before ſet forth; and then the ſaid Mr. *Ogle* ſaid, if this Gentleman ſtays in the Room, we deſire *we may have one too*; to which it was an-
860 ſwered by the *Penſilvania* Commiſſioners, *With all our hearts*, *twenty if you pleaſe*; Whereupon one *John Beale*, a Clerk of ſome Court in *Maryland*, was called in by the De-fendant's Commiſſioners. And then the ſaid Mr. *Ogle* beginning to ſpeak about the Opinion of the Mathematicians, concerning the Circle to be run about the Town of *New-caſtle*, the Commiſſioners of *Penſilvania* recounted the *former Conduct* of the Defendant's Commiſſioners, and how they had diſregarded their laſt Notice to meet at *Newcaſtle* the
861 ſaid 16th of *April*, and the ſeveral Notices given them in *Newcaſtle*, in the Month of *February* to meet at the Court-Houſe in the ſaid Town, and eſpecially when Mr. *Jennings*, being in Company with two of the *Maryland* Commiſſioners and four of the *Penſilvania* Commiſſioners, *left the Room with Intent* that there might *not be a Quorum* of the *Mary-land* Commiſſioners preſent, with the *Penſilvania* Commiſſioners; upon which the ſaid Mr. *Jennings* then interrupted the *Penſilvania* Commiſſioners, and ſaid he *own'd he had*
862 *done ſo*, and that in the *ſame* Circumſtance, he would *do ſo again*; and then it was ſaid by the *Penſilvania* Commiſſioners, that Miſunderſtanding had formerly ariſen *about what paſſed* at their ſeveral Meetings, they therefore now inſiſted that the Defendant's Commiſſioners ſhould reduce *into Writing* any Queſtions, Propoſals or Arguments they had to offer, and to ſign them, and that they the ſaid *Penſilvania* Commiſſioners would *do the like*, and thereupon ſeveral Papers were exchanged between the Plaintiffs and Defendant's
863 Commiſſioners, concerning the *Dimenſions* of the Circle directed to be run about the Town of *Newcaſtle* purſuant to the ſaid Articles of Agreement, and after much Time ſpent this way, it was *propoſed* by the *Maryland* Commiſſioners, that they ſhould immediately adjourn to Cape *Hinlopen*, to which the *Penſilvania* Commiſſioners *agreed*, ſaying they would ſet out the *next Morning*, and deſired that *a Minute might be made* to *that* purpoſe; but *then* the ſaid Mr. *Ogle* ſaid, that by *immediately* he did not mean to go ſo *ſoon*, but
864 that they would be ready to meet the Plaintiffs Commiſſioners there in a *Fortnight*; To this the Plaintiffs Commiſſioners ſaid, they could *not* but think themſelves *very hardly uſed* in being brought upwards of 100 Miles, into a Place where they could *not* be provided with *Neceſſaries* for their Support, merely to be told that they *muſt meet a Fortnight after*, at another Place, which was above 100 Miles further; nor did they think the ſaid Uſage *better* in the Defendant's Commiſſioners propoſing an *immediate Adjournment* to
865 Cape *Hinlopen*, and *then* declining *to ſtand to it*, which the Plaintiffs Commiſſioners believed was propoſed *only in Expectation* that the Plaintiffs Commiſſioners *would refuſe* to agree to it. And the Deponent ſaith that he does likewiſe believe, that the Defendant's Commiſſioners ſo appointing the ſaid Meeting *at Joppa*, was *only* in hopes that the Plaintiffs Commiſſioners would *not meet them there*, and thereby the Defendant would gain ſome Advantage; and after many Debates concerning the further Adjournment, and the Defen-
866 dant's Commiſſioners alledging that *they* were obliged to wait upon the Lord *Baltimore*, who was on his Way to make a Viſit to the Governor of *New York*, then at *Burlington* in *New Jerſey*, and therefore they *muſt* adjourn, a Minute was drawn up, *aſſigning for Cauſe of their Adjournment* that the Defendant's Commiſſioners were obliged to wait upon the Lord *Baltimore*; but it was *objected* to by the Defendant's Commiſſioners, as *unneceſſary* to have the *Reaſon* of their Adjournment aſſigned in the Minute, yet, it was inſiſted upon by
867 the Plaintiffs Commiſſioners, that *as that was aſſigned by the Defendant's Commiſſioners* as the true Reaſon of their deſiring an Adjournment, it *ought to be inſerted* in the Minute. And the only Reaſon the Plaintiffs Commiſſioners could find why the Defendant's Commiſſioners ſhould oppoſe it, was, *leſt it ſhould appear* they had ſent for the Plaintiffs

Commiſſioners

Commiſſioners only *to tell them that* they met, to adjourn from *Joppa*, to *attend their Lord*; That under this Difference, the Commiſſioners on each ſide continued together till *Eleven*
868 of the Clock at Night, and the Plaintiffs Commiſſioners obſerving that the Defendant's Commiſſioners *muſt* wait upon their Lord Proprietor, they, *at length*, agreed to *leave the Reaſon aforeſaid out of the ſaid Minute*, and *then* the Minute was prepared for an Adjournment to *Philadelphia*, and was ſigned the next Morning; That Quorums of the Commiſſioners, on each ſide, did afterwards meet at *Philadelphia* aforeſaid on the 26th Day of *May* next following, when it was repreſented by the Defendant's Commiſſioners, that the
869 Lord *Baltimore* being about to depart very ſoon after for *England*, and ſome of the Defendant's Commiſſioners intending to accompany his Lordſhip to *Virginia*, from whence he was to take his Departure, and that the ſaid Mr. *Ogle*, on reſuming the Government of *Maryland* was obliged to renew his Security, which was to be executed before the Governor of *Virginia*, which required the ſaid Mr. *Ogle*'s perſonal Attendance, upon *thoſe* Conſiderations, joined to that of the Unfitneſs of the Seaſon for running Lines in the Woods, an Adjournment to the 3d of *September* following, at *Newcaſtle* Town aforeſaid, was *agreed* to and drawn up, and ſigned by the Commiſſioners on both ſides; That Quorums of
870 the Plaintiffs and Defendant's Commiſſioners met at *Newcaſtle* Town, on the ſaid *3d Day of September*, and continued together *three Days*, during which Time ſeveral Papers were exchanged between them, concerning the *Dimenſions* of the ſaid Circle, the Plaintiffs Commiſſioners inſiſting that the ſaid Circle ſhould be drawn at the *Diſtance* of 12 Miles *from the Town of Newcaſtle*, and the Defendant's Commiſſioners perſiſting in their former declared Opinion, that the ſaid Circle ſhould only be a Circle of 12 Miles *Circumference*; *They*
871 therefore propoſed to the Plaintiffs Commiſſioners to adjourn for further Conſideration, until the 14th of *November* then next, and a Minute thereof was *accordingly* drawn up and ſigned; On which Day a Quorum of the Commiſſioners, on each ſide, met at *Newcaſtle* Town aforeſaid, and continued together until the 24th Day of the ſame Month, during which time ſeveral Papers were exchanged between them, principally concerning the *Dimenſions* of the ſaid Circle; and the Commiſſioners on each ſide perſiſting in their *former*
872 Opinions concerning the ſame, it was ſaid by the Defendant's Commiſſioners, *that*, under this Difference of Opinion or Judgment, they muſt *either* continue at *Newcaſtle* aforeſaid until the 25th of *December* then next, or muſt depart from thence without further Adjournment, and a Minute was accordingly drawn up, declaring the Sentiments of the Commiſſioners on each ſide, and the Reaſons of their Departure without further Adjournment; Therefore this Deponent ſaith, that the *groundleſs Objections*, which were raiſed by the Defendant's Commiſſioners againſt the *Validity* of the Plaintiffs Commiſſion to their Commiſſioners, *their* affecting *Privacy*, and refuſing to admit Clerks, or to *ſign and*
873 *exchange* Minutes of the Proceedings of the Commiſſioners, *their long* Adjournments, without *any good* Reaſons for the ſame; their *endeavouring* to take the Advantage of a *ſmall* Failure in the Plaintiffs Commiſſioners for Non-attendance; their *diſregarding the repeated Notices and Requeſts*, made to them by the Plaintiffs Commiſſioners at *Newcaſtle* on the 3d of *February*, and the Notices given to them to meet upon the 16th of *April*; together with their *ſetting up, and inſiſting upon*, a *Circle* of *Dimenſions*, *different* from that which was *expreſly directed* by the ſaid *Articles of Agreement*, and the *ſeveral other Matters* herein before declared by this Deponent, *are the apparent Cauſes* and *the true Reaſons*, why the Deponent believes the Defendant's Commiſſioners *never intended* to carry the ſaid Articles of Agreement into Execution.

21ſt **Branch**, That the *Circle*, and the *Diſtance* of it, were *well known* at the Time of the Agreement, That Lord *Baltimore*'s own Map had *many* particular Marks and Lines relating to that very Circle; That he had above 8 Years before that Time the largeſt Draft of the Peninſula, that had ever been ſeen, with ſeveral Eaſt and Weſt Lines markt for Diviſion thereon; That the Plaintiffs had never been in *America*, to gain any Knowledge on *their* Parts; and alſo to prove an old Map of the Town of *Newcaſtle*.

Ferdinando John Paris [*Lib.* A. *fol.* 195. *Int.* 18. *fol.* 268] Says *that the Circle*, round *Newcaſtle*, and the *Diſtance* that ſuch Circle was to be, from its Centre, were, at *ſundry* of the Meetings, had in this Deponent's Preſence, between all (or ſome) of the Plaintiffs and the Defendant, in order to the ſaid Agreement, ſpoken of and mentioned, *many times*; and were by *every one* of them, who ſpoke of the ſame, *conſtantly ſpoke of, and treated as a Circle* to be drawn at the Diſtance of 12 Miles *from the Centre*, and at *no other* Diſtance whatever: but that a Queſtion did afterwards ariſe, whether ſuch 12 Miles ſhould be *Geographical Miles*, or *Engliſh Statute Miles*; and the Deponent hath *good reaſon* to remember, that neither the Defendant, nor the Plaintiffs, did, at any one of the Meetings between them in order to the ſaid Agreement, which the Deponent was preſent at, (and he believes he was preſent at *all* ſuch Meetings) *ever* mention that the ſaid Circle ſhould be at *four* Miles, or at *two* Miles Diſtance from *Newcaſtle*, or *any thing of that ſort*, but, on the contrary, the Defendant the Lord *Baltimore*, himſelf, ſpoke of the ſaid Circle at ſuch Meetings, as at the *Diſtance* of 12 Miles from its *Center*; and *more particularly*, upon the Occaſion of his inſiſting that the Head or North Bounds of his Province of *Maryland*, ſhould go up ſo far North, as to be within 15 Miles South of the Latitude of *Philadelphia*, the Deponent well remembers that the Plaintiffs (or ſuch of them as were then preſent) and the Defendant appeared to be all *at a loſs*, to judge, upon their Maps (then produced on each ſide) whereabout ſuch fifteen Miles would fall upon the Map, there not being *any Scale* of Miles either upon the ſaid Lord *Baltimore*'s, or upon the Plaintiffs written Map; On which Occaſion, the Lord *Baltimore*, with a Pair of Compaſſes, meaſured one of the ſaid written Maps, and took his Scale or Meaſure (as for 12 Miles) from the Diſtance which was there laid down between *Newcaſtle* and the Circle, or Part of a Circle there drawn; and from *ſuch* Meaſure, ſet off a *larger* Diſtance, as for 15 Miles, South of *Philadelphia*, at which Diſtance, he had inſiſted, his Head or Northern Boundary ſhould be, and markt one of the ſaid written Maps *accordingly*; and which Uncertainty as to the *exact* Place, where 15 Miles South of *Philadelphia* would fall, or of the *Name* of any *ſuch* Place, occaſioned the Deponent, on preparing the 7th Article, in the Draft of the ſaid Articles of Agreement, to expreſs the ſame to ſome ſuch Effect as is therein mentioned. And the Deponent is the *rather certain*, that during the ſaid ſeveral Meetings in order to the ſaid Treaty, which the Deponent was preſent at, the ſaid Circle was never once mentioned, by *any* Perſon, as a Circle at *two* Miles Diſtance from *Newcaſtle* only, for that, a *long time* after the Sealing and Delivery of the ſaid Articles of Agreement, when the Deponent *firſt* heard that the ſaid Articles of Agreement had not been carried into Execution in *America*, but that a Conteſt had aroſe there between the Commiſſioners on each ſide, whether the Circle ſhould be *two* Miles diſtant, or 12 Miles diſtant, from *Newcaſtle*, this Deponent was under a real *Surpriſe* thereat, and had recourſe to the Draft of the ſaid Articles, and to one *engroſt Part* of the ſame, then in this Deponent's Cuſtody, *fearing* that *ſome Miſtake* of the Clerk, in *copying* or engroſſing, or by expreſſing the Diſtance in *Figures* only, and not in Words at length, *muſt* have given Room for making *ſuch* a Queſtion as that; And this Deponent, finding *no Miſtake* either in the Draft or in that engroſt Part of the Articles which was in this Deponent's Cuſtody, could not (in a *great length* of time after he firſt heard of ſuch Conteſt between the Commiſſioners) *conceive* upon *what* Foundation ſuch a Queſtion could be raiſed.

The Same [*Int.* 19. *fol.* 276] Says that the *Weſtern Part* of the Circle, as it was drawn out upon the Lord *Baltimore*'s, and upon the Plaintiffs written *Maps*, which were ſo produced as aforeſaid, did extend *Weſtwards*, very *near to*, or even to touch *Elk River*, and ſo the ſame was *graven* and printed off, but whether a Circle to be drawn only at 12 *Statute* Miles Diſtance from *Newcaſtle*, will really extend *ſo far Weſtwards*, doth not know; And ſaith that, from *all* this Deponent *knows*, or hath *ſeen*, he doth *believe* that the Defendant had the *fulleſt* Information relating to the ſaid Circle, and the *Dimenſions* thereof; for that, the Deponent hath, before, and ſince, the entring into the ſaid Agreement between the Parties to this Cauſe, ſeen *many* Drafts and Plans, where the Circle about *Newcaſtle* was laid down, but as to the *Extent* and *Diſtance* of ſuch Circle from *Newcaſtle*, there were either on the *Back-ſide* of the written Map ſo produced and markt by the Lord *Baltimore* as aforeſaid, or on ſome Paper, which was then *ſtitched* or *pinned*, or ſome how *affixt* to it, *ſuch* and *ſo many particular Lines and Marks, and Notes and Deſcriptions, relating* to *the ſaid Circle*, as the Deponent *never, before, or ſince*, ſaw, in *any other* Map or Paper *whatever*, either belonging to the Plaintiffs, or any *other* Perſon; from *whence*, as well as from the *Expreſſions* in the *Draft* of the ſaid Articles of Agreement, and *from* the ſaid Mr. *Senex*'s *written Opinion* upon the ſame, the Deponent apprehends and *believes*, *none* of the Parties to this Cauſe, and *much leſs* the Defendant, were *at all ignorant* of, or under *any Uncertainty*, *then* about the *Dimenſions* of the ſaid Circle, but were *well informed* of the ſame, that it was to be at twelve Miles *Diſtance* from *Newcaſtle*, *beſides which*, in the *Draft* of the ſaid Articles of Agreement there was *recited* the *Charter* from the Crown, of *Penſilvania*, and the two Feoffments from the Duke of *York*, for *Newcaſtle*, and the South Tract, in the *very* deſcriptive *Words*, as this Deponent believes (as to the Limits of the Territory granted) [redacted] of the ſaid Charter and Feoffments, or very nearly ſo.

The Defendant at *fol.* 268. denies he *ever* meant or *intended* that the Circle ſhould be a Circle, whoſe Semi-Diameter ſhould be 12 Miles, and inſiſts at *fol.* 360. that if the Articles ſhould be decreed to be carried into Execution, yet that the Circle was *thereby agreed*, and ought to be a Circle, whoſe Semi-Diameter is *two* Miles.

Now we'll *firſt* conſider the *Grants* by themſelves, before we come to the *Agreement*, and what are they? The Charter of *Penſilvania* begins, clearly and without any Poſſibility *of* Doubt, by a Circle to be drawn Northerly and Weſterly 12 Miles diſtant *Northwards* from *Newcaſtle* Town; Again—The Duke of *York*'s Feoffment of the *loweſt* of the two South Tracts begins, as clearly and expreſly, at the Diſtance of 12 *Miles Southwards* from *Newcaſtle* Town—And what does the Feoffment of *Newcaſtle*, which was the middle Tract between thoſe two Grants? Why, it grants the Town of *Newcaſtle*, and all the Lands within the Compaſs or Circle of 12 Miles about the Town—Can any Man in his Senſes, ſeriouſly imagine that this contains the leaſt Matter of Doubt? He got two Perſons to *ſign* a Paper, as their *pretended* Opinion, that the Circle in the *Feoffment* of *Newcaſtle* (not the Circle mentioned in the *Agreement*) ſhould be only *two* Miles diſtant, but though they *ſigned* it, and are examined as Witneſſes to ſwear that they *ſigned* it, they beg our Pardons, they won't ſay a ſingle Word that they even *thought* that to be a true Opinion as to the Extent of *that* Circle in the *Feoffment*.

But the Defendant would chuſe rather to debate upon the *Feoffment*, which he imagines is *leſs clear* than the others. Now we are not obliged to *that*, but if we were, it would not at all help him. For that particular Feoffment *itſelf* is exceedingly clear in our favour, as *already* obſerved; beſides which, that very Feoffment, in *two* ſeveral Places calls it expreſly 12 Miles of *Land*; which abſolutely deſtroys *his* Conſtruction of the Circle, becauſe a Circle, whoſe Circumference or Periphery is but 12 Miles, does *not* contain 12 Miles of Land, no not even if that Circle was *compleat*; whereas ours is not *Half* of a Circle of *Land*, as *Newcaſtle* lies on the great *River ſide*, and does not contain any thing near *Half* 12 Miles of Land.

Another thing which ſhews the *Diſtance* of the *Newcaſtle* Circle is, Sir *John Werden*'s Requeſt in behalf of the Duke of *York* in 1680, at firſt, that Mr. *Penn* ſhould be bounded 20 or 30 Miles North of *Newcaſtle*, which at laſt was brought to be *but* 12 Miles North, and ſo deſcribed in the Patent of *Penſilvania*.

But when we come to the *Agreement*, ſurely we are beyond all Imagination of Doubt, both that it was *agreed*, and was *intended* to be, 12 Miles *diſtant from Newcaſtle*.

For 1. The Draft of the Agreement, 9 Months under Conſideration, ſays ſo *expreſly*.

2. Mr. *Senex*'s *written Opinion* on that Agreement ſays ſo *expreſly*—And that the Town of *Newcaſtle* was to be taken *as a Centre*.

3. My Lord's own *Propoſals*, under his own Hands, deſcribe it, in *two ſeveral Places*, in the very firſt Article of his Propoſals, a Circle of 12 *Miles Diſtance from Newcaſtle*, and in the third Article the Circle of 12 Miles from *Newcaſtle*.

4. His Articles, ſo deliberately ſettled, and afterwards executed under his *Hand and Seal*, direct it to be drawn at the Diſtance of 12 Miles *from the Town* of *Newcaſtle*, moſt *expreſly*.

And I would beg of my Lord, or his *moſt* ingenious Council, to explain my Lord's *own* Propoſal *any* otherwiſe.

Nor is this all.

5. *Paris* ſwears that my Lord, during *the Treaty*, not only ſpoke of it as at 12 Miles Diſtance, but took off the Meaſure, as *for* 12 *Miles*, from the Circle in the Map, in order to meaſure off and ſatisfy his Curioſity where the 15 Miles South of *Philadelphia* would fall upon the Map.

6. The Affair of the Circle was *moſt particularly* under Conſideration during the Treaty, and was not a Matter that paſt *ſub ſilentio*, for, with regard to the Miles at which that Circle ſhould be diſtant from *Newcaſtle*, you'll pleaſe to obſerve there were *only two Diſtances* of Miles mentioned in the whole Articles; the one was the 12 Miles Diſtance for *this Circle*, the other was the 15 Miles South of *Philadelphia*; and it is in that Sheet of the Draft where both theſe Diſtances are mentioned, that Mr. *Sharpe*'s general Remark of his own Hand-writing is placed, that the Miles, *throughout*, ſhould be expreſt *Engliſh Statute Miles*. So that the Circle was thereby the *more particularly* under Contemplation, and the Diſtance which it was to be at from *Newcaſtle*, whether 12 Geographical Minutes, or 12 *Engliſh* Statute Miles.

Yet, this Defendant is ſo extremely hardy as to ſay, he *never meant*, or intended 12 Miles diſtant, but that the Circle *agreed* upon, is only *two* Miles diſtant.

The *moſt favourable* thing that can be ſaid, and that's *extremely bad*, is, that Mr. *Hamilton*, who drew this Anſwer for my Lord, had not ſufficient Time or Inſtructions, and that my Lord *ſwore* to what *he drew*, and never read it over; for otherwiſe, ſome of his Perjuries are ſo groſs (and ſo fooliſh too) that my Lord could not poſſibly have put in *ſuch* an Anſwer, he *many* times flatly contradicting *his own ſelf* in Facts, beſides the many other Places in which he is contradicted by his own Witneſſes.

James Logan aged 65 [*Lib.* B. *fol.* 76. *Int.* 36. *fol.* 218] That ſubſequent to *an Agreement* made between the Lord *Baltimore* and *Hannah Penn*, in *February* 1723, to wit, in *May* 1724, there was a Meeting appointed and held between the ſaid Lord *Baltimore* as Proprietor of *Maryland*, and the Proprietors of *Penſilvania*, at the *George* and *Vulture* Tavern in *London*, at which were preſent on the Lord *Baltimore*'s ſide, the ſaid Lord *Baltimore*, *John Hide* of *London* Merchant, and his Son, and on the part of the Proprietors of *Penſilvania*, two of the Plaintiffs, with *Springett Penn*, who claimed a Right in the ſame Province, and *Joſhua Gee* and *Henry Goldney*, two of the aforeſaid *Truſtees* of the ſaid Province, *Simon Clement*, and the Affirmant; and upon opening the Conference, the Lord *Baltimore produced*, and kept lying on the Table before him, a *Draft on a Sheet of Paper*, which appeared to the Affirmant, who eyed it *very carefully*, to be the *faireſt and largeſt Manuſcript Draft* of *Cheſopeak* Bay, and alſo *Delaware*, *with the Peninſula* lying between them, and the adjacent Parts, *that ever the Affirmant had ſeen*; on which Draft there were drawn, at leaſt *two* Eaſt and Weſt Lines, but to the beſt of the Affirmant's Memory, *not leſs than three*, which ſeemed to the Affirmant as intended to have been drawn with a purpoſe to expreſs the *ſeveral Diviſions* that had been *thought of* for a *Partition* Line between the two Provinces aforeſaid; but by the ſaid *John Hide* and his Son ſitting between the Affirmant and the ſaid Lord *Baltimore*, the Affirmant was not near enough to obſerve, ſo *preciſely* the *Places* by which the ſaid Diviſion-Lines paſſed, as he would *otherwiſe* have done, but, in the Lord *Baltimore*'s Diſcourſe, he *ſeemed to the Affirmant to be well acquainted with the Situation of the principal Parts then diſcourſed of*, which were the Provinces of *Penſilvania* and *Maryland*, and *particularly* with the *Situation* of the *three lower Counties*, which the Affirmant *well remembers*, *becauſe* the ſaid Lord *Baltimore then propoſed entirely to releaſe all his Claim* to the ſaid Counties, and *argued* that, as the ſaid Counties were by his Letters Patent within the *Deſcription* of the ſaid Province, and the Crown made *ſome* Claim to them, *it could not but ſtrengthen* the Title of the Proprietors of *Penſilvania* to the ſame Counties, or Words to that effect; but having ſpent ſeveral Hours together, the Company parted, for that time, and the Affirmant having left *England* in the *ſame* Month, can't ſay what was further done therein.

The Same. [*Int.* 60. *fol.* 157] Saith that he having come into *Penſilvania in the ſame Ship* with the Father and Mother of the Plaintiffs in the Year 1699, lived in their Family *at the Time* that *John Penn* was born, which was in *January* in the ſame Year, at *Philadelphia*, in this Province, and the Affirmant *afterwards* accompanied the Father and Mother of the Complainants,

 with

with *the ſaid John* an Infant *under two Years old*, on their Way toward *England*, as far as the Capes of *Delaware*, and although the Affirmant was intimately acquainted with the Affairs of the ſaid Family, he *never* heard, and *firmly believes*, that the ſaid *John Penn never was in Penſilvania* or any other Part of *America* from *that Time*, until *after* the Month of *May* 1732; and that the Plaintiffs *Thomas* and *Richard Penn* were born *in England*; and *never heard*, and *verily believes* that the ſaid *Thomas Penn never was in America*, until after *May* in the Year 1732; and that *Richard Penn has never been in America to this Day*.

Letitia Aubrey aged 60. [*Lib.* A. *fol.* 134. *Int.* 31. *fol.* 138] That the Plaintiffs are her *Half-Brothers*, and ſhe has known them from their *reſpective* Births, and ſaith the Plaintiff *John Penn* was born at *Philadelphia* in the Province of *Penſilvania* in *America*, which ſhe can depoſe, becauſe ſhe remembers the ſaid Plaintiff's *Birth there*, where the Affirmant's ſaid Father and Family *then* reſided; and in or about the Year 1701, her ſaid Father and his Family left *Penſilvania* aforeſaid, and came to *England*, and brought the Affirmant, *and the ſaid Plaintiff John*, along with them, and the ſaid Plaintiff was then *about a Year and half, or two Years of Age, and no more*, and the Affirmant is *certain* that, between the Time of the ſaid Plaintiff's coming from *Penſilvania* as aforeſaid, and the Month of *May* 1732, he the ſaid Plaintiff *never was* in *Penſilvania*, or in any other Part of *America*; And ſaith the ſaid Plaintiffs *Thomas* and *Richard Penn* were born at *Briſtol* in *England*, after her ſaid Father's Return from *Penſilvania* aforeſaid; And the Affirmant is *certain*, that the ſaid Plaintiffs *Thomas* and *Richard*, or either of them, *were not at any time* in *America*, *before* the ſaid Month of *May* 1732, and the Affirmant is enabled to depoſe as aforeſaid, becauſe of her *Nearneſs of Relation* to the ſaid Plaintiffs, and the *many* Opportunities ſhe had of ſeeing and hearing from them, and *muſt needs* have known, if either of them had gone to *America*, before the ſaid Month of *May* 1732, and it was in that Month (as ſhe remembers) that the *Agreement*, or Writings between them and the Lord *Baltimore*, *were executed*, at which this Affirmant was preſent, and remembers the Plaintiff *Thomas* went to *Penſilvania ſoon afterwards*, and upon *that* Occaſion, as ſhe believes, and that it was a conſiderable time *after that*, before the Plaintiff *John* went there; but the Plaintiff *Richard* has *not been there at all*.

Thomas Penn Lib. A. *fol.* 5. *Int.* 31. *fol* 9. a Servant in the Family, } Both confirm the foregoing Account, that the Plaintiffs were *never* in *America* till *after* the Agreement in Queſtion was exe-
John Page Lib. A. *fol.* 174. *Int.* 31. *fol.* 177. } cuted.

Andrew Hamilton aged 64. [*Lib.* C. *Fol.* 775. *Int.* 117. *Fol.* 874.]—Further on at *Fol.* 879.] Says that at a Meeting of the Commiſſioners on both Sides, on 31 *October* 1732, at *Newcaſtle*, a *Diſpute* ariſing, between the Commiſſioners, about fixing a *Center* for the Circle about the Town of *Newcaſtle*, and the *Maryland* Commiſſioners then propoſing that the Commiſſioners ſhould walk and view the Town, they did ſo, with ſome of the principal Inhabitants, amongſt whom was one *John Hoare*, *then* the *Surveyor* of *Newcaſtle* County, and *ſince deceaſed*; which ſaid *John Hoare then* produced and delivered to the *Penſilvania* Commiſſioners, in order to aſſiſt and direct them in the finding and fixing ſuch Center, the *Map or Plan* endorſt *NEWGASTLE*, which Map the ſaid *Hoare then* told this Deponent, and the reſt of the ſaid Commiſſioners, was an *old Map* or Plan of the Town of *Newcaſtle*, which he had *found amongſt* the *Papers in*, and belonging to, the *ſaid Office* of Surveyor of *Newcaſtle* County, when he the ſaid *Hoare* was *firſt* appointed and put into that Office——And ſays he has good Reaſon to believe that the ſaid Map or Plan was drawn or made by one *Arnoldus de la Grange*, who, as he has been informed and believes, was an ancient conſiderable Inhabitant of the Town of *Newcaſtle*, at and before the Grant thereof to Mr. *Penn*, This Deponent having very *frequently* had in his Cuſtody, and ſeen, *ſeveral antient Deeds* and *publick Writings*, bearing Date *before the ſaid Grant*, and alſo the *Attornment* of the Tenants of *Newcaſtle* to Mr. *Penn* on his *firſt* Arrival there; to *which* ſeveral Deeds, Inſtruments, and Writings, was ſubſcribed or wrote the Name *Arnoldus de la Grange*, which this Deponent was *then* credibly informed and *believes*, was the Hand Writing of the ſaid *Arnoldus de la Grange*; and *thereby* this Deponent became *acquainted* with his Character and Manner of Hand Writing, and verily *believes* all the *Names* (except a few) which are compriſed and ſet down in the ſaid *Map or Plan*, are the proper Hand Writing of the ſaid *Arnoldus de la Grange*.

22ᵈ Branch, That the Defendant was not *deceived* in the Plaintiffs *Title*, which he *very well knew*, long before the Agreement.

Ferd. John Paris [*Lib.* A. *Fol.* 195. *Int.* 21. *Fol.* 284.] That he cannot take upon him to ſay *poſitively*, how far the Defendant the Lord *Baltimore*, at the *Time* of entring into the ſaid Agreement with the Plaintiffs, was acquainted with the Plaintiffs *Title*, either to the Province of *Penſilvania*, or to the 3 lower Counties of *Newcaſtle*, *Kent* and *Suſſex*; but from the Authentick Records, and other old original Papers, which this Deponent hath ſeen of what paſt in the Years 1680, 1683, 1684, 1685, 1708, 1709, 1716, 1717, and 1725, relating to the ſaid Province and Counties, *ſome of which Matters* the Defendant himſelf was (to this Deponent's *Knowledge*) a Party to, the Deponent doth moſt *aſſuredly believe*, that the Defendant *was acquainted* with the *Title* under which the Plaintiffs claimed the ſaid Province and Counties at *the Time* of, *and long before* the entring into the ſaid Treaty; nor did the Deponent *ever hear*, that Proprietary *William Penn*'s Title to the ſaid *Province* of *Penſilvania* had been, by *any* Perſon, or in *any* Sort, objected to, as imperfect, or any way inſufficient; and, as the Deponent *always* underſtood the ſaid Agreement between the Parties to this Cauſe, the *Subſtance* thereof appeared to the Deponent to be, that, *in Conſideration* of Lord *Baltimore*'s *releaſing* to the Plaintiffs his *Claim* to the 3 *lower Counties*, the Plaintiffs ſhould releaſe *to him*, a *Part* of the Province of *Penſilvania*; In *which* Light the Deponent conceived, that the Plaintiffs Title to the ſaid Province of *Penſilvania* was the *Matter* that was eſſential and material to the Defendant.

The Defendant in his own Anſwer, *Fol.* 206. Says he *always* lookt upon the three lower Counties to be his Right, and to be appertaining to his Province, and he *never* acknowledged or *believed* that the Plaintiffs had *any* Right or Title thereto whatſoever. How then could he be deceived in the Plaintiffs Title to them, if he *never* believ'd they had any?

Beſides, it's *he* conveys his Pretenſions to the lower Counties to *them*, not *they* to him.

What they convey to him, is out of their Province of *Penſilvania*, which Province is expreſt, in their Charter, to commence from the *Beginning* of the 40th Degree.

Moreover neither Party covenants that he has *any Title* to convey what either of them releaſes, but they were mutually to releaſe their *Pretenſions*, whatever they were, good, bad, or indifferent, to the other.

23ᵈ Branch Of the *Eaſt* and *Weſt* Bounds of the Peninſula, and where the *Bay* of *Delaware* ends, *viz.* at *Bombays-Hook*, about 30 Miles below the Town of *Newcaſtle*.

Samuel Preſton aged 75. [*Lib.* B. *fol.* 312. *Int.* 5. *fol.* 315] Says the ſaid Peninſula is bounded, *on the Eaſtward* from the Cape of *Virginia* to the Cape at the Mouth of *Delaware* Bay called Cape *Enlopen* or *Inlopen*, by the *Ocean*——From thence, by the ſaid *Bay* of *Delaware*, which is *generally* believed to extend as far as *Bombay-Hook* on the ſaid Bay——And, from thence by the *River* of *Delaware*.

James Logan aged 66. [*Lib.* B. *Fol.* 76. *Int.* 5. *Fol.* 84.] That the ſaid Peninſula is bounded, *on the Eaſtward*, as far as the South Cape of *Delaware*, by the Atlantick *Ocean*;——From thence, more Northerly, by *Delaware Bay* and *River*——He cannot preciſely determine where the *Bay* of *Delaware ends*, and the River *begins*. Has heard, from *Navigators*, that the *Bay ends*, and the River *begins*, at *Bombay Hook*, becauſe, upon arriving *there*, they thought the Danger of their Voyage over, and for that they had good Anchorage, and ſafe riding under an Iſland there, but his own Opinion has, *always*, been that the Bay reached to the *Bite*, between the Mouths of *Apoquinimink* and *Red Lion* Creeks.

Thomas Noxon aged 40. [*Lib.* C. *Fol.* 488. *Int.* 5. *Fol.* 491.] The ſaid Peninſula is bounded, to the Eaſtward, from the moſt *Southern* Part thereof to the Mouth of *Delaware* Bay, near *Lewes* Town, by the *Ocean*;——From the ſaid *Mouth* of *Delaware* Bay to *Bomties Hook*, now commonly called *Bombay Hook*, by the *Bay* of *Delaware*; and, from the ſaid *Bomties Hook*, as far as the ſaid Peninſula extends Northwards, by *Delaware River*.

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24th Branch, Proof of our *general Map*, and where the *true Iſthmus* is, being formed by the *Tide Waters flowing* very *near*, to within 4 Miles of each other, in *Apoquinomy* River and *Bohemia* River.

Benjamin Eaſtburn aged 44, Surveyor General in *Penſilvania* [*Lib.* C. *Fol.* 678. *Int.* 123. *Fol.* 685.] Has lookt on the Map markt PEN, (which is the *Manuſcript* Original General Map whereof you have a *printed Copy* at the Beginning of this Book) Says it was drawn by himſelf, and he *believes* it is a *true* Repreſentation of the Parts therein deſcribed——For *Reaſons* of his Belief ſays he drew *all* the Parts layd down in the ſame, between the Line markt a Parallel of Latitude to the Southermoſt Part of *Philadelphia* City, and another markt TEM, according to a *careful and exact Menſuration* of the Parts there repreſented, made by him——That he drew *all* the *other* Parts of ſaid Map, repreſenting the Lands on *Delaware River*, *Delaware Bay*, and the *Ocean*, down to the Place in the ſaid Map called *Cape Hinlopen*, partly, from his own *Obſervations*, and partly, from *Returns*, and Accounts of *Surveys*, made by Deputy Surveyors into the Office of the Surveyor General of *Penſilvania*——That *Suſquehannah* River, to the *Northward* of *Coneſtogo* Creek, is laid down by Returns *of Surveys* now remaining in his Office——That he drew *that Part* of the ſaid Map which is *between* the ſaid Line TEM, and the Line markt BAL, on the *Eaſt* Side of *Suſquehannah* River, from *actual Surveys* made of a *great Part* of the Lands repreſented to lie between *thoſe* Lines, *Certificates* of which Surveys, and *Plats* of the ſame, have been returned to, and are *now in* the ſaid Office.—That he drew *the Parts* of ſaid Map, laid down for, and about, the *Head* of *Cheſopeak* Bay from the ſaid Line BAL down to the Place in the ſaid Map called *Saſſafras* River, partly, from his *own Obſervations*, and partly from the *Obſervations* of *others*, that were communicated to him——And that he drew *all the remaining* Parts of the ſaid Map, to the *Southward* of the ſaid Place marked *Saſſafras* River on the ſaid Bay of *Cheſopeak*, from the *beſt* Drafts and Maps thereof that he could procure——Has lookt on the *Line* markt A, and ſays that *the* River, where the *Weſt* End of the ſaid Line terminates, marked M, is called *Bohemia* River, which flows out of *Cheſopeak Bay*; and that the Water or Creek, where the *Eaſt* End of the ſaid Line terminates, marked *N*, is called *Apoqueminink*, commonly called *Apoquinomy*, which *flows* out of *Delaware*.—Has heard, and believes the *Tide-Water does flow*, in *Bohemia* River, as high as Letter *M*; and has alſo been informed, and believes that the *Tide-Water*, *formerly* did *flow* as high up *Apoquinomy* Creek as Letter *N*, but is *now* obſtructed by erecting a *Mill-Dam* a-croſs the Creek, about *a Mile below* the Place *N*.——To which *Dam* he has *ſeen* the ſaid Water *flow*.——And believes the ſaid Places *M* and *N*, are about *four Miles* diſtant from each other.——And that he is well aſſured there is *not any Place* in the ſaid *Peninſula* or Tract of Land, where the *Tide-Waters*, *flowing* out of *Cheſopeake Bay*, or *Suſquehanna River*, do approach, or come, *ſo near* to the *Tide-Water*, *flowing* out of the *Bay* or *River* of *Delaware*, as they do at the ſaid Places markt *M* and *N*.

Thomas Noxon, aged 40. [*Lib.* C. *fol* 488. *Int.* 123. *fol.* 519.] Says the ſaid Map *PEN*, was drawn by the ſaid *Benjamin Eaſtburn*, Surveyor-General of *Penſilvania*; and from this Deponent's *Acquaintance with*, and *Obſervations from time to time* of *the ſeveral Parts* of the Country and Places, laid down and deſcribed in the ſaid Map, *And* from the Deponent's having *compared* the ſame with a *larger Draft or Map*, which this Deponent formerly took and drew of the three lower Counties, and Part of *Maryland*, by an *Actual Survey*, or Traverſe, run by this Deponent from *Newcaſtle* Town on *Delaware*, down thro' that Side of *Newcaſtle* County, and thro' *Kent* and *Suſſex* Counties to *Lewis* Town, and to the South Cape of *Delaware*, and from thence, by the Ocean to *Fenwick*'s Iſland, and *alſo* by and from this Deponent's having taken the *Bearings* and *Diſtances* of *ſeveral* of the *Waters* and *Rivers* about the Head of *Cheſopeake* Bay, with, or from, ſome of the Creeks that empty themſelves into *Delaware* River, and of the *Bearings* and *Diſtances* of ſome Parts of the ſame *River*, he is induced to believe that the *Lands and Waters*, on the Side of *Delaware Bay* and *River*, and the Ocean, are laid down and deſcribed, in the ſaid Map, *as correctly and truly as the ſame could be done*, without making an *Actual Survey* of the Out-Lines of the Lands adjoining upon *Delaware Bay* and *River* up to the Town of *Newcaſtle*.——As to the *Line* markt *A*, he ſpeaks exactly as *Eaſtburn* does, only *poſitively* of his own Knowledge, that the Water flows out of *Cheſopeake* Bay to the Head of *Bohemia* River at the *Weſt* End of that Line markt *M*; and that the *Eaſt* End of the ſaid Line markt *N*, is the Head of *Apoquinomy* Creek, which empties itſelf into *Delaware* River.——And ſays *poſitively* that that *laſt* Water *did* flow to Letter *N*, till he himſelf made the Mill-Dam, which has ſtopt its Flowing thither, by about *one Mile now*.——He ſays he has *meaſured* the Diſtance between *M* and *N*, and ſo *knows* it to be about *four* Miles.——And believes *no Waters*, *flowing* out of *Cheſopeake* Bay, approach *ſo near*, to any of the Waters *flowing* out of *Delaware* River or Bay, as thoſe do, at the Head of *Bohemia* River and *Apoquinomy* Creek.

Thomas Miles, aged 49, Surveyor in *another* Neighbouring *Province* of *New Jerſey*, [*Lib.* C. *Fol.* 541. *Int.* 123. *Fol.* 542.] Believes the ſaid Map was drawn by *Benjamin Eaſtburn*; and ſays that the Draft of the *Head* of *Cheſopeak* Bay appears to him to be drawn *nearly agreeable* to what it repreſents.—— And that *Delaware River*, from *Naaman*'s *Creek* down to *Apoquinomy Creek*, is drawn *nearly agreeable* to the Courſes of the ſaid River.——Which he believes, *becauſe* he has had *frequent* Occaſions, for *above ſixteen Years* paſt to *ſurvey Lands* on the *Eaſt* ſide of *Delaware River*, on the *Shore ſide*, *from* the Land *oppoſite* to the Mouth of *Apoquinomy* aforeſaid, upward, to the Place markt *Naaman*'s *Creek*,

with *the ſaid John* an Infant *under two Years old*, on their Way toward *England*, as far as the Capes of *Delaware*, and although the Affirmant was intimately acquainted with the Affairs of the ſaid Family, he *never* heard, and *firmly believes*, that the ſaid *John Penn never was in Penſilvania* or any other Part of *America* from *that Time*, until *after* the Month of *May* 1732; and that the Plaintiffs *Thomas* and *Richard Penn* were born *in England*; and *never heard*, and *verily believes* that the ſaid *Thomas Penn never was in America*, until after *May* in the Year 1732; and that *Richard Penn has never been in America to this Day*.

Letitia Aubrey aged 60. [*Lib.* A. *fol.* 134. *Int.* 31. *fol.* 138] That the Plaintiffs are her *Half-Brothers*, and ſhe has known them from their *reſpective* Births, and ſaith the Plaintiff *John Penn* was born at *Philadelphia* in the Province of *Penſilvania* in *America*, which ſhe can depoſe, becauſe ſhe remembers the ſaid Plaintiff's *Birth there*, where the Affirmant's ſaid Father and Family *then* reſided; and in or about the Year 1701, her ſaid Father and his Family left *Penſilvania* aforeſaid, and came to *England*, and brought the Affirmant, *and the ſaid Plaintiff John*, along with them, and the ſaid Plaintiff was then *about a Year and half, or two Years of Age, and no more*, and the Affirmant is *certain* that, between the Time of the ſaid Plaintiff's coming from *Penſilvania* as aforeſaid, and the Month of *May* 1732, he the ſaid Plaintiff *never was* in *Penſilvania*, or in any other Part of *America*; And ſaith the ſaid Plaintiffs *Thomas* and *Richard Penn* were born at *Briſtol* in *England*, after her ſaid Father's Return from *Penſilvania* aforeſaid; And the Affirmant is *certain*, that the ſaid Plaintiffs *Thomas* and *Richard*, or either of them, *were not at any time* in *America*, *before* the ſaid Month of *May* 1732, and the Affirmant is enabled to depoſe as aforeſaid, becauſe of her *Nearneſs of Relation* to the ſaid Plaintiffs, and the *many* Opportunities ſhe had of ſeeing and hearing from them, and *muſt needs* have known, if either of them had gone to *America*, before the ſaid Month of *May* 1732, and it was in that Month (as ſhe remembers) that the *Agreement*, or Writings between them and the Lord *Baltimore*, *were executed*, at which this Affirmant was preſent, and remembers the Plaintiff *Thomas* went to *Penſilvania ſoon afterwards*, and upon *that* Occaſion, as ſhe believes, and that it was a conſiderable time *after that*, before the Plaintiff *John* went there; but the Plaintiff *Richard* has *not been there at all*.

Thomas Penn Lib. A. *fol.* 5. *Int.* 31. *fol* 9. a Servant in the Family, } Both confirm the foregoing Account, that the Plaintiffs were *never* in *America* till *after* the Agreement in Queſtion was exe-
John Page Lib. A. *fol.* 174. *Int.* 31. *fol.* 177. } cuted.

Andrew Hamilton aged 64. [*Lib.* C. *Fol.* 775. *Int.* 117. *Fol.* 874.]—Further on at *Fol.* 879.] Says that at a Meeting of the Commiſſioners on both Sides, on 31 *October* 1732, at *Newcaſtle*, a *Diſpute* ariſing, between the Commiſſioners, about fixing a *Center* for the Circle about the Town of *Newcaſtle*, and the *Maryland* Commiſſioners then propoſing that the Commiſſioners ſhould walk and view the Town, they did ſo, with ſome of the principal Inhabitants, amongſt whom was one *John Hoare*, *then* the *Surveyor* of *Newcaſtle* County, and *ſince deceaſed*; which ſaid *John Hoare then* produced and delivered to the *Penſilvania* Commiſſioners, in order to aſſiſt and direct them in the finding and fixing ſuch Center, the *Map or Plan* endorſt *NEWCASTLE*, which Map the ſaid *Hoare then* told this Deponent, and the reſt of the ſaid Commiſſioners, was an *old Map* or Plan of the Town of *Newcaſtle*, which he had *found amongſt* the *Papers in*, and belonging to, the *ſaid Office* of Surveyor of *Newcaſtle* County, when he the ſaid *Hoare* was *firſt* appointed and put into that Office——And ſays he has good Reaſon to believe that the ſaid Map or Plan was drawn or made by one *Arnoldus de la Grange*, who, as he has been informed and believes, was an ancient conſiderable Inhabitant of the Town of *Newcaſtle*, at and before the Grant thereof to Mr. *Penn*, This Deponent having very *frequently* had in his Cuſtody, and ſeen, *ſeveral antient Deeds* and *publick Writings*, bearing Date *before the ſaid Grant*, and alſo the *Attornment* of the Tenants of *Newcaſtle* to Mr. *Penn* on his *firſt* Arrival there; to *which* ſeveral Deeds, Inſtruments, and Writings, was ſubſcribed or wrote the Name *Arnoldus de la Grange*, which this Deponent was *then* credibly informed and *believes*, was the Hand Writing of the ſaid *Arnoldus de la Grange*; and *thereby* this Deponent became *acquainted* with his Character and Manner of Hand Writing, and verily *believes* all the *Names* (except a few) which are compriſed and ſet down in the ſaid *Map or Plan*, are the proper Hand Writing of the ſaid *Arnoldus de la Grange*.

22ᵈ Branch, That the Defendant was not *deceived* in the Plaintiffs *Title*, which he *very well knew*, long before the Agreement.

Ferd. John Paris [*Lib.* A. *Fol.* 195. *Int.* 21. *Fol.* 284.] That he cannot take upon him to ſay *poſitively*, how far the Defendant the Lord *Baltimore*, at the *Time* of entring into the ſaid Agreement with the Plaintiffs, was acquainted with the Plaintiffs *Title*, either to the Province of *Penſilvania*, or to the 3 lower Counties of *Newcaſtle*, *Kent* and *Suſſex*; but from the Authentick Records, and other old original Papers, which this Deponent hath ſeen of what paſt in the Years 1680, 1683, 1684, 1685, 1708, 1709, 1716, 1717, and 1725, relating to the ſaid Province and Counties, *ſome of which Matters* the Defendant himſelf was (to this Deponent's *Knowledge*) a Party to, the Deponent doth moſt *aſſuredly believe*, that the Defendant *was acquainted* with the *Title* under which the Plaintiffs claimed the ſaid Province and Counties at *the Time* of, *and long before* the entring into the ſaid Treaty; nor did the Deponent *ever hear*, that Proprietary *William Penn*'s Title to the ſaid *Province* of *Penſilvania* had been, by *any* Perſon, or in *any* Sort, objected to, as imperfect, or any way inſufficient; and, as the Deponent *always* underſtood the ſaid Agreement between the Parties to this Cauſe, the *Subſtance* thereof appeared to the Deponent to be, that, *in Conſideration* of Lord *Baltimore*'s *releaſing* to the Plaintiffs his *Claim* to the 3 *lower Counties*, the Plaintiffs ſhould releaſe *to him*, a *Part* of the Province of *Penſilvania*; In *which* Light the Deponent conceived, that the Plaintiffs Title to the ſaid Province of *Penſilvania* was the *Matter* that was eſſential and material to the Defendant.

The Defendant in his own Anſwer, *Fol.* 206. Says he *always* lookt upon the three lower Counties to be his Right, and to be appertaining to his Province, and he *never* acknowledged or *believed* that the Plaintiffs had *any* Right or Title thereto whatſoever. How then could he be deceived in the Plaintiffs Title to them, if he *never* believ'd they had any?

Beſides, it's *he* conveys his Pretenſions to the lower Counties to *them*, not *they* to him.

What they convey to him, is out of their Province of *Penſilvania*, which Province is expreſt, in their Charter, to commence from the *Beginning* of the 40th Degree.

Moreover neither Party covenants that he has *any Title* to convey what either of them releaſes, but they were mutually to releaſe their *Pretenſions*, whatever they were, good, bad, or indifferent, to the other.

23ᵈ Branch Of the *Eaſt* and *Weſt* Bounds of the Peninſula, and where the *Bay* of *Delaware* ends, *viz.* at *Bombays-Hook*, about 30 Miles below the Town of *Newcaſtle*.

Samuel Preſton aged 75. [*Lib.* B. *fol.* 312. *Int.* 5. *fol.* 315] Says the ſaid Peninſula is bounded, *on the Eaſtward* from the Cape of *Virginia* to the Cape at the Mouth of *Delaware* Bay called Cape *Enlopen* or *Inlopen*, by the *Ocean*——From thence, by the ſaid *Bay* of *Delaware*, which is *generally* believed to extend as far as *Bombay-Hook* on the ſaid Bay——And, from thence by the *River* of *Delaware*.

James Logan aged 66. [*Lib.* B. *Fol.* 76. *Int.* 5. *Fol.* 84.] That the ſaid Peninſula is bounded, *on the Eaſtward*, as far as the South Cape of *Delaware*, by the Atlantick *Ocean*;——From thence, more Northerly, by *Delaware Bay* and *River*——He cannot preciſely determine where the *Bay* of *Delaware ends*, and the River *begins*. Has heard, from *Navigators*, that the *Bay ends*, and the River *begins*, at *Bombay Hook*, becauſe, upon arriving *there*, they thought the Danger of their Voyage over, and for that they had good Anchorage, and ſafe riding under an Iſland there, but his own Opinion has, *always*, been that the Bay reached to the *Bite*, between the Mouths of *Apoquinimink* and *Red Lion* Creeks.

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Samuel Preſton aged 75. [*Lib.* B. *Fol.* 312. *Int.* 110. *Fol.* 447.] Has known *Delaware* Bay about 50 Years, and hath heard and believes that the *Head* of the ſaid Bay is at *Bombay Hook* on the ſame Bay, which he believes is about 25 or 30 *Engliſh* Statute Miles to the *Southward* of the Middle of the Town of *Newcaſtle*, but is not very well acquainted with the Diſtance—— That he knows the ſaid Town a long Time, and has been very frequently there.

24th Branch, Proof of our *general Map*, and where the *true Iſthmus* is, being formed by the *Tide Waters flowing* very *near*, to within 4 Miles of each other, in *Apoquinomy* River and *Bohemia* River.

Benjamin Eaſtburn aged 44, Surveyor General in *Penſilvania* [*Lib.* C. *Fol.* 678. *Int.* 123. *Fol.* 685.] Has lookt on the Map markt PEN, (which is the *Manuſcript* Original General Map whereof you have a *printed Copy* at the Beginning of this Book) Says it was drawn by himſelf, and he *believes* it is a *true* Repreſentation of the Parts therein deſcribed——For *Reaſons* of his Belief ſays he drew *all* the Parts layd down in the ſame, between the Line markt a Parallel of Latitude to the Southermoſt Part of *Philadelphia* City, and another markt TEM, according to a *careful and exact Menſuration* of the Parts there repreſented, made by him——That he drew *all* the *other* Parts of ſaid Map, repreſenting the Lands on *Delaware River*, *Delaware Bay*, and the *Ocean*, down to the Place in the ſaid Map called *Cape Hinlopen*, partly, from his own *Obſervations*, and partly, from *Returns*, and Accounts of *Surveys*, made by Deputy Surveyors into the Office of the Surveyor General of *Penſilvania*——That *Suſquehannah* River, to the *Northward* of *Coneſtogo* Creek, is laid down by Returns *of Surveys* now remaining in his Office——That he drew *that Part* of the ſaid Map which is *between* the ſaid Line TEM, and the Line markt BAL, on the *Eaſt* Side of *Suſquehannah* River, from *actual Surveys* made of a *great Part* of the Lands repreſented to lie between *thoſe* Lines, *Certificates* of which Surveys, and *Plats* of the ſame, have been returned to, and are *now in* the ſaid Office.—That he drew *the Parts* of ſaid Map, laid down for, and about, the *Head* of *Cheſopeak* Bay from the ſaid Line BAL down to the Place in the ſaid Map called *Saſſafras* River, partly, from his *own Obſervations*, and partly from the *Obſervations* of *others*, that were communicated to him——And that he drew *all the remaining* Parts of the ſaid Map, to the *Southward* of the ſaid Place marked *Saſſafras* River on the ſaid Bay of *Cheſopeak*, from the *beſt* Drafts and Maps thereof that he could procure——Has lookt on the *Line* markt A, and ſays that *the* River, where the *Weſt* End of the ſaid Line terminates, marked M, is called *Bohemia* River, which flows out of *Cheſopeak Bay*; and that the Water or Creek, where the *Eaſt* End of the ſaid Line terminates, marked *N*, is called *Apoqueminink*, commonly called *Apoquinomy*, which *flows* out of *Delaware*.—Has heard, and believes the *Tide-Water does flow*, in *Bohemia* River, as high as Letter *M*; and has alſo been informed, and believes that the *Tide-Water*, *formerly* did *flow* as high up *Apoquinomy* Creek as Letter *N*, but is *now* obſtructed by erecting a *Mill-Dam* a-croſs the Creek, about *a Mile below* the Place *N*.——To which *Dam* he has *ſeen* the ſaid Water *flow*.——And believes the ſaid Places *M* and *N*, are about *four Miles* diſtant from each other.——And that he is well aſſured there is *not any Place* in the ſaid *Peninſula* or Tract of Land, where the *Tide-Waters*, *flowing* out of *Cheſopeake Bay*, or *Suſquehanna River*, do approach, or come, *ſo near* to the *Tide-Water*, *flowing* out of the *Bay* or *River* of *Delaware*, as they do at the ſaid Places markt *M* and *N*.

Thomas Noxon, aged 40. [*Lib.* C. *fol* 488. *Int.* 123. *fol.* 519.] Says the ſaid Map *PEN*, was drawn by the ſaid *Benjamin Eaſtburn*, Surveyor-General of *Penſilvania*; and from this Deponent's *Acquaintance with*, and *Obſervations from time to time* of *the ſeveral Parts* of the Country and Places, laid down and deſcribed in the ſaid Map, *And* from the Deponent's having *compared* the ſame with a *larger Draft or Map*, which this Deponent formerly took and drew of the three lower Counties, and Part of *Maryland*, by an *Actual Survey*, or Traverſe, run by this Deponent from *Newcaſtle* Town on *Delaware*, down thro' that Side of *Newcaſtle* County, and thro' *Kent* and *Suſſex* Counties to *Lewis* Town, and to the South Cape of *Delaware*, and from thence, by the Ocean to *Fenwick*'s Iſland, and *alſo* by and from this Deponent's having taken the *Bearings* and *Diſtances* of *ſeveral* of the *Waters* and *Rivers* about the Head of *Cheſopeake* Bay, with, or from, ſome of the Creeks that empty themſelves into *Delaware* River, and of the *Bearings* and *Diſtances* of ſome Parts of the ſame *River*, he is induced to believe that the *Lands and Waters*, on the Side of *Delaware Bay* and *River*, and the Ocean, are laid down and deſcribed, in the ſaid Map, *as correctly and truly as the ſame could be done*, without making an *Actual Survey* of the Out-Lines of the Lands adjoining upon *Delaware Bay* and *River* up to the Town of *Newcaſtle*.——As to the *Line* markt *A*, he ſpeaks exactly as *Eaſtburn* does, only *poſitively* of his own Knowledge, that the Water flows out of *Cheſopeake* Bay to the Head of *Bohemia* River at the *Weſt* End of that Line markt *M*; and that the *Eaſt* End of the ſaid Line markt *N*, is the Head of *Apoquinomy* Creek, which empties itſelf into *Delaware* River.——And ſays *poſitively* that that *laſt* Water *did* flow to Letter *N*, till he himſelf made the Mill-Dam, which has ſtopt its Flowing thither, by about *one Mile now*.——He ſays he has *meaſured* the Diſtance between *M* and *N*, and ſo *knows* it to be about *four* Miles.——And believes *no Waters*, *flowing* out of *Cheſopeake* Bay, approach *ſo near*, to any of the Waters *flowing* out of *Delaware* River or Bay, as thoſe do, at the Head of *Bohemia* River and *Apoquinomy* Creek.

Thomas Miles, aged 49, Surveyor in *another* Neighbouring *Province* of *New Jerſey*, [*Lib.* C. *Fol.* 541. *Int.* 123. *Fol.* 542.] Believes the ſaid Map was drawn by *Benjamin Eaſtburn*; and ſays that the Draft of the *Head* of *Cheſopeak* Bay appears to him to be drawn *nearly agreeable* to what it repreſents.—— And that *Delaware River*, from *Naaman*'s *Creek* down to *Apoquinomy Creek*, is drawn *nearly agreeable* to the Courſes of the ſaid River.——Which he believes, *becauſe* he has had *frequent* Occaſions, for *above ſixteen Years* paſt to *ſurvey Lands* on the *Eaſt* ſide of *Delaware River*, on the *Shore ſide*, *from* the Land *oppoſite* to the Mouth of *Apoquinomy* aforeſaid, upward, to the Place markt *Naaman*'s *Creek*,

Creek, and, in that Time, having taken the Breadth of the ſaid River by Mathematical Inſtruments, in two Places, *and* from *other Obſervations* of the *Bearings* and *Diſtances* of *the ſeveral* remarkable Points and Places on the ſaid River, this Deponent in 1733, *framed a Draft thereof*, from 7 or 8 Miles below *Newcaſtle* Town, up to ten Miles beyond *Newcaſtle* Town; and, has, alſo, taken a *particular Obſervation* from the Town of *Newcaſtle* down to the Place on the ſaid River markt P. which is called *the Bite*; and has, *upon Examining, found* the ſaid Map to *agree* with *all* his ſaid *Experience* and *Obſervations*.—Further ſays, he *believes* the ſaid Draft of the Head of *Cheſopeak Bay* is *truely drawn, becauſe* it is agreeable to *Obſervations* made by the Deponent *the middle of laſt Month*, when, from the Place in the ſaid Map called *Turkey Point*, he obſerved the Bearings of *Suſquehanna*, *Elk*, and *North Eaſt* Rivers, and alſo the Courſe of *Cheſopeak Bay* downward.—He exactly agrees with *Eaſtburn* and *Noxon*, that the *Tide Water* flows out of *Cheſopeak Bay*, up *Bohemia* River, to Letter M.—That the other Water up *Apoquinomy* does not, *now*, by about one Mile, flow to Letter N. becauſe of the *Mill-dam*, but he has obſerved how high the Tide riſes at the *Mill-dam*, and the ſmall Aſcent of the Branch from thence to Letter N. and ſays that, before erecting the *Mill-dam*, the *Tide Water* did flow as high as Letter N.—Says that by riding between M and N. he computes the Diſtance to be about *four Miles*.—Is not well acquainted with the Peninſula to the *Southward* of the Parts he has mentioned, but ſays poſitively there is *not any Place* to the *Northward* of Line A. where the *Tide Waters*, *flowing* out of *Cheſopeak Bay*, and *Delaware*, do approach and come *ſo near* as at the Places markt M. and N.

Jacob Heulings Eſq; aged 58. Surveyor in *Weſt Jerſey* [*Lib.* C. *Fol.* 530. *Int.* 123. *Fol.* 531.] Has looked on the ſaid Map markt P E N, and ſays it was made by *Benjamin Eaſtburn*.——That he is acquainted with the *Water* and *Branches* in the ſaid Map laid down for the *Head* of *Cheſopeak Bay*—with the *Lands* lying on *Delaware* River, between *Newcaſtle* Town and *St. George's Creek*—and with the *Lands* lying between the ſaid Head of *Cheſopeak Bay*, and the ſaid Lands lying on *Delaware* as aforeſaid.—And *verily believes* the ſaid Map is *as true* and exact a Repreſentation of *thoſe* Parts, as *can well be made*. The *Reaſons* of his belief are, that he has ſeen *a Map* which he was informed contained Drafts of *all the particular Surveys* of the Land ſurvey'd in *Newcaſtle* County.——That it *appeared* by the ſaid Map that *all* the Land in the ſaid County, lying on *Delaware* River, had been *ſurveyed*, and were there diſtinctly and *particularly* laid down, together with the ſaid River *Delaware* and the *ſeveral* Creeks or Rivers in the ſaid County running into *Delaware*; and *this Deponent* with *ſome other Perſons* ſkilled in Surveying, in order *to try the Truth* of the ſame Map, did, with *proper ſurveying Inſtruments*, try the Courſe of the ſaid River *Delaware*, from *Newcaſtle* downward below the *Bite* markt with the Letter P; *which* Courſes the Deponent has ſince *compared* with thoſe laid down in the ſaid Map, and found they *exactly agreed* with them.——That, afterwards, the Deponent *and the Perſons aforeſaid*, went over to the *Head* of *Cheſopeak Bay*, and *there* took the general *Courſe* and *Bearings* of the *Lands*, *Rivers* and *Waters* there, (but collected the *Diſtances* from the Informations of Perſons reſiding thereabouts) *with which* Courſes and Bearings of the ſame Lands, Rivers and Waters, and the Informations aforeſaid, the Map *now produced well agrees*.—That the Deponent afterwards, rode, *divers Times*, a-croſs, from the ſaid *Head* of *Cheſopeak Bay* to *divers* of the *neareſt* Parts of *Delaware* River aforeſaid and the Branches thereof, and *computed the Diſtances* as well as he could, and, *therefore*, thinks the Diſtance from the ſaid *Head* of *Cheſopeak Bay* to the neareſt part of *Delaware River*, as *laid down* in the ſaid Map, is *nearly agreeable* to the *true* Diſtances of thoſe Places from each other.—He has looked on the Line A. and gives exactly the ſame Account as all the reſt, of the Tide Waters flowing reſpectively to the ſeveral Ends of M and N of that Line, and believes the Diſtance between them to be about *four* Miles.—Is not acquainted with the ſaid Peninſula, to the *Southward* of the Parts he has mentioned, but ſays (poſitively) there is *not any* other Place to the *Northward* of Line A, where the *Tide Waters*, *flowing* out of *Cheſopeak Bay* and *Delaware*, do approach and come *ſo near* each other, as they do at the Places mark'd M and N.

Note, That Place, therefore, between M and N, thus *eſtabliſhed*, where the *Tide Waters*, on each ſide, *flow the neareſt* to each other, at *four*, or, as now, at *five*, Miles Diſtance, is what we rely on, as *the* Iſthmus and Concluſion of the whole *Peninſula*. And the Matter mentioned by Mr. *Logan* in his Anſwer to the next Interrogatories for judging it to be (what the others ſwear *it is*) the *neareſt*, is an exceeding *ſtrong* one; for in War Time, when they were afraid of Coaſting all round the Peninſula, Merchants would moſt *certainly* chuſe the *ſhorteſt* and *neareſt* Land-Carriage for their Goods a-croſs the Peninſula, which he ſays, was *preciſely* from the common Landing at *Apoquinomy* Creek, to the common Landing at *Bohemia* River, which Landing-Places for Merchandiſe were but about 7 or 8 Miles aſunder.

25th Branch, Proof where the before-mentioned *Iſthmus* formed by the *flowing* Water is, and alſo, where, *another* Iſthmus, formed by the *navigable* Water is.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 6. *Fol.* 86.] Takes the *Iſthmus* of a Peninſula to be, where the *Navigable Waters*, on *each* ſide, approach the *neareſt* to each other. Says the *Navigable Waters* of *Apoquiminink* Creek, and of *Bohemia* River, are *nearer* to each other than any that run into the Bay of *Cheſopeak*, and the Bay or River of *Delaware*. The *Reaſons* he has to believe the ſaid Creek and River do approach *nearer* to each other than any *other navigable* Waters that run into the ſaid Bay or River *Delaware*, are, that in 1706, he went into a Boat, up *Apoquiminink* Creek, to the *common Landing* on the ſaid Creek, and from thence by Land, to the *common Landing* on *Bohemia* River aforeſaid, which was then *reputed* to be about 7 or 8 Miles, and at that Time, *in the* French *War*, *was uſed as a Paſſage and carrying Place*, the *neareſt* between the ſaid Bays of *Cheſopeak* and *Delaware*, for *the Conveyance of Goods imported from* Britain *in Fleets* under Convoy to *Virginia* and *Maryland*, which were conſigned to *Philadelphia* and *Newcaſtle* on *Delaware*.——That the *Courſe* of *Delaware* River from *Apoquinimink*, as far to the Northward as the Town of *Newcaſtle*, (which he ſuppoſes may be near the ſame Latitude with the utmoſt Extent of the Bay of *Cheſopeak*) is not very much different from North, but the Head of *Cheſopeak* Bay is ſo *broken*, by the three Arms that make it, which come from *Bohemia* River, *Elk* River, and North-Eaſt River, and the Necks of Land are ſo broke, between theſe ſeveral Arms, that there *cannot* be ſaid to be *any* Parallelism on that ſide.—That at the Head of *Cheſopeak* Bay the great River *Suſquehannah* enters—which laſt-mentioned River, and the River *Delaware*, *from* the ſaid Head of *Cheſopeak* Bay, *ſo much diverge*, that in the Latitude of *Philadelphia* (which at the utmoſt Extent is not above 24 Miles more *Northerly* than the Town of *Newcaſtle*) upon a *direct* Weſt Courſe, they are *above* 60 *Engliſh* Miles *diſtant* from *each other*.——That the Waters of *Delaware* and *Cheſopeak Bays* do ſo *diverge*, *below*, or to the *Southward* of *Apoquinimink* and *Bohemia* aforeſaid, that at the Cape or Entrance of *Delaware* Bay, the *Breadth* of the ſaid Peninſula, upon a *direct* Weſt Courſe, is, in his Judgment, *not much*, if any thing, *leſs* than the aforeſaid Diſtance of 60 *Miles*.

Thomas Noxon, aged 40. [*Lib.* C. *Fol.* 488. *Int.* 6. *Fol.* 492.]—Says that, if the *Iſthmus* of the ſaid Peninſula ſhall be judged to be formed by the neareſt approach of the *flowing Waters* out of *Cheſopeak* Bay into the Rivers or Creeks *thereof*, and of the *flowing Waters* out of *Delaware* Bay and River into the Creeks *thereof*—Then—the *Iſthmus* is *formed* by the *Head* of *Bohemia* River, which runs into *Cheſopeak* Bay, and the *Head* of *Apoquinomy* Creek that runs into *Delaware*.—The *Waters* of which Creek and Rivers did, about 12 or 13 Years ago, *flow* within about *four* Miles of each other, but *now* by reaſon of a *Mill* erected on the ſaid Creek, they don't *flow* nearer to each other than about *five* Miles.——But, if it ſhall be judged that the Iſthmus is form'd by the neareſt approach of *Cheſopeak Bay*, and *Delaware Bay* or *River* to each other—Then—the Iſthmus of the ſaid Peninſula is formed, by the *Eaſtermoſt* Part of the Head of *Cheſopeak Bay* aforeſaid, near the Mouth of *Suſquehannah* and North-Eaſt Rivers, and *that* Part of *Delaware River* about *four* Miles *below* the Town of *Newcaſtle*, called *the Bite*—becauſe, *there*, as the Deponent from the beſt Obſervations he has made believes, the ſaid *Bay* of *Cheſopeak*, and the *River* of *Delaware* are *nearer* to each other, than *any other* Parts of the *Bay* of *Cheſopeak* and *Delaware River*, or the ſaid *Bays* of *Cheſopeak* and *Delaware*—Which *Bite* and *Head-Line* of *Cheſopeak Bay*, the Deponent believes are near, or about, *twenty-two* Miles diſtant from each other.——And that, from the ſaid Bite, and the Head of *Cheſopeak Bay* aforeſaid, the *Waters* of *Delaware River* and of *Cheſopeak Bay*, *do diverge* from each other, *both upward, and downward*.

Thomas Noxon, aged 40. [*Lib.* C. *Fol.* 488. *Int.* 124. *Fol.* 525.] He has look'd upon the produced Map mark'd P E N, and upon the Line in the ſaid produced Map mark'd B.—Says that the *Water* at the *Weſt End* of that Line and Markt O, is Part of the *Head* of *Cheſopeak Bay*, and that the *Water* at the *Eaſt End* of the ſaid Line at the Letter *P*, is called the *Bite of* Delaware *River* below the Town of *Newcaſtle*. And ſays the *Diſtance* between the Waters at *O*, at the *Weſt* End, and P at the *Eaſt* End, is, as he believes, near, or about *twenty-two Miles*, he being *well acquainted* with the ſaid ſeveral Places and the Lands lying between them, and lives in the ſaid County of *Newcaſtle*.

Jacob Heulings, aged 58. [*Lib.* C. *Fol.* 530. *Int.* 124. *Fol.* 539.]—Says exactly the ſame as Mr. *Noxon*, and that he by riding between the ſaid Places *O* and *P*, did compute the Diſtance between them was about *twenty-two* Miles; and he adds that, at the ſaid Places mark'd *O* and P, the *Bay* of *Cheſopeak* and the *River* of *Delaware* do approach *nearer* to each other, than the ſaid Bay of *Cheſopeak* or the River *Suſquehanna* do to the ſaid River *Delaware*, in *any* place to the *Northward* of the ſaid Places mark'd O and P.

Thomas Miles, aged 49. [*Lib.* C. *Fol.* 541. *Int.* 124. *Fol.* 550.] Says the ſame as Mr. *Heulings*,

Benjamin Eaſtburn, aged 44. [*Lib.* C. *Fol.* 678. *Int.* 124. *Fol.* 693.] Confirms all the ſame, and ſays the Diſtance between *O* and *P*, as he computes and believes from perſonal *Obſervations* which he himſelf has made there, and from credible Accounts which he has had from *other* Perſons, is about 22 *Engliſh* Statute Miles. And is well ſatisfied there is *not any other Place* upon the ſaid *Peninſula* or Neck of Land which lies between the Bay of *Cheſopeak* and *Suſquehanna* River on the one ſide, and the Bay and River of *Delaware* on the other, where *Cheſopeak* Bay and *Suſquehanna* River, approach or come ſo near to the Bay or River of *Delaware*, as the *Bay* of *Cheſopeak* at the Letter *O* does to the *River* of *Delaware* at the Letter *P*, as deſcribed in the ſaid Map.

Note, You are not to expect that the Defendant ſhould endeavour to *clear up* this, or any *other* Point, he affects *only* to render *doubtful* and *uncertain*; and therefore, has not examined to any thing in certainty about this, or many other matters; and as the *main Waters themſelves* approach neareſt *here* between *O* and *P*, *this* may be thought, on *that* account, the *true* Iſthmus; we think otherwiſe, becauſe the *flowing Waters*, as before obſerved, meet, (lower down) within 4 Miles of each other, whereas theſe are 22 aſunder; and we think the *narroweſt* Neck muſt make the Iſthmus which is about 9 Miles more *South*, than the Line which we are *now* upon; but, if *this* be thought to be *the* Iſthmus, it does not at all hurt or affect our Caſe, or *any one* of our Arguments.

26th Branch, Proof of *ſeveral* Springs that riſe *in* the *Peninſula*, and run, from the ſame *common* Head, *both ways*, into the Bays on *each* ſide of the Peninſula.

James Scotten of *Maryland*, aged 36. [*Lib.* B. *Fol.* 294. *Int.* 21. *Fol.* 295.] Is pretty well acquainted with ſome Parts of the *Neck of Land* [he means the Peninſula] which lies between the Bay of *Cheſopeak* and the Bay and River of *Delaware*. That the Lands, on the *Weſt* ſide of the ſaid Neck, are called *Maryland*, and are under the Government of Lord *Baltimore*; and the Lands, lying on the *Eaſt* ſide of the ſaid Neck, are called the three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex*, and are under the Government of the Proprietors of *Penſilvania*.——Says that the Rivers *Choptank*—*Cheſter*—and *Saſſafras*, take their *Riſe* in the ſaid Neck, and, he believes, *empty* themſelves into the Bay of *Cheſopeak*——Andthat the Creeks commonly called—*Jones*'s—and *Duck* Creek—take their *riſe* in the ſaid Neck, and, as he has been informed and believes, *empty* themſelves into the Bay or River of *Delaware*.——Says there is—a *Pond*—in the ſaid Neck, called *Iſland Pond*, *from whence* a Stream runs into the Head of *Cheſter* River aforeſaid.——And that there is—*another Pond*—in the ſame Neck, about three Quarters of a Mile diſtant from *Iſland Pond* aforeſaid, from whence a Stream runs into *Cheſter* River aforeſaid, *and alſo* from whence another Stream runs into *Duck Creek* aforeſaid.

Thomas Powell of *Maryland*, aged 41. [*Lib.* B. *Fol.* 298. *Int.* 21. *Fol.* 299.] Is pretty well acquainted with ſome Parts of the ſaid Neck of Land which lies between the Bay of *Cheſopeak*, and the Bay and River of *Delaware*.——Says the Lands on the *Weſt* ſide of the ſaid Neck are called *Maryland*, and are under Lord *Baltimore*'s Government; and the Lands lying on the *Eaſt* ſide of the ſaid Neck are called *Newcaſtle*, *Kent*, and *Suſſex*, and are under the Government of the Proprietors of *Penſilvania*.—Says the Rivers of *Choptank*—and *Cheſter*—take their *riſe* in the ſaid Neck, and he believes, *empty* themſelves into the Bay of *Cheſopeak*—and that the Creeks commonly called—*Jones*'s—and little *Duck Creek*—alſo take their *Riſe* in the ſaid Neck, and as he believes, *empty* themſelves into the Bay or River of *Delaware*.—Says there is—a Pond—in the ſame Neck, called *Iſland Pond*, from *whence* a Stream runs into the Head of *Cheſter* River aforeſaid, *and alſo*, from whence, another Stream runs into *Jones*'s Creek aforeſaid.—And that there is *another Pond* in the ſame Neck, about three quarters of a Mile diſtant from *Iſland Pond* aforeſaid, from whence a Stream runs into *Cheſter* River aforeſaid, and alſo from whence, another Stream runs into *Delaware*.——And that there is a *narrow Swamp*, in the ſaid Neck, from whence, *two* Streams iſſue, one of which runs into *Choptank* River, and the other into *Jones*'s Creek aforeſaid.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 21. *Fol.* 129.] Is well acquainted with the ſaid Neck of Land lying between *Cheſopeak* Bay, and the Bay and River of *Delaware*, the Lands on the *Weſt* ſide of ſaid Neck are Part of *Maryland*, and with the Inhabitants thereof are under the Juriſdiction and Government of Lord *Baltimore*; and the Lands on the *Eaſt* ſide of the ſaid Neck is the County of *Newcaſtle*, and further down the Bay of *Delaware*, are the Counties of *Kent* and *Suſſex*, and which ſaid three Counties are under the Government and Juriſdiction of the Proprietors of *Penſilvania*——Says there are *ſeveral Rivers* and Streams of Water which *riſe* in the ſaid Neck, and *empty* themſelves into the Bay of *Cheſopeak*, viz.—*Bohemia*—*Saſſafras*—*Cheſter*—and *Choptank* with divers *others*.—Says there are ſeveral *other* Rivers or Creeks and Streams of Water, which alſo *riſe* in the ſaid Neck, and *empty* themſelves into the ſaid Bay and River of *Delaware*, viz.—*Red Lion Creek*—*St. George's Creek*—*Apoquiminink Creek*—(all within a very few Miles of each other)—*Duck Creek*—*St. Jones's Creek*—*Murtherkill*—and divers *others* to the Southward.——But, as to the *firſt* Fountains or Springs of them, it's well known that not only Peninſulas but Continents, have moſt frequently, a *riſing Ridge*, *from which* the Springs of the Waters, flowing *contrary* ways, often *riſe* very *near* to each other, tho' their *Mouths* are, not unfrequently, above 1000 Miles diſtance from each other.——Has heard and believes that *ſome* of the Streams, iſſuing from the Springs in the ſaid Neck, very nearly *interlock* with each other; but the *Navigable Water* of the *neareſt* of them, (below what has been above-mentioned of *Apoquiminink* and *Bohemia*) to the beſt of his Information, is *more than twenty Miles* Diſtance.

Mark Manlove, aged 61. [*Lib.* B. *fol.* 42. *Int.* 21. *fol.* 43.] Knows a Part of the ſaid Neck of Land, and gives the like Account as the others, as to the *Weſt* and *Eaſt* Sides of it, being under *Maryland* and *Penſilvania* Government.——Has ſeen the River *Potomoke*—*Wicotomoco*—*Nauticoack*—*Choptank*—*Wye*, and—*Miles*,—which take their Riſe in the ſaid Neck; and he believes, by their deſcending towards *Cheſopeake* Bay, that they empty themſelves into *it*.—Has likewiſe heard and believes, that the Rivers *Cheſter*—*Saſſafras*—and *Bohemia*—alſo take their Riſe in the ſaid Neck, and empty themſelves into *Cheſopeak* Bay aforeſaid.——Has alſo heard, and believes, that the Rivers—*Elk*—and *North-Eaſt*—empty

themſelves into the ſaid Bay of *Cheſopeake*; but does not know, nor has heard where *they* riſe.——Says, that——*Muſpillion*——and *Murderkill*——*Dover*——and *Little-Creek*——alſo take their Riſe in the ſaid Neck, and empty themſelves into the Bay of *Delaware*.——And that *Lewes Creek*, formerly called the *Whorekills*——*Broadkill*——*Prime-Hook*——*Slaughter-Creek*——*Cedar-Creek*——*Duck-Creek*——*Blackbird-Creek*——*Apoquinimink*——*St. George's*——*Chriſtiana*——and others—— empty themſelves into the Bay and River of *Delaware*; but where they reſpectively take their Riſe, knows not. ——That one of the Branches of *Nauticoak* River——and one Branch of *Muſpillion* Creek aforeſaid——flow from *a Pond* of Water of about 4 or 5 Acres.——And that there is another Branch of the ſaid *Muſpillion* Creek, whoſe Riſe he does not know, which extends itſelf much further to the Weſtward than the ſaid Pond; and believes it takes its Riſe from the *ſame* Swamp or Pond with another Branch of the ſaid River *Nauticoak*.——And that one of the Branches of *Murderkill* aforeſaid, at its Riſe, is divided from the Riſe of another Branch of the ſaid River *Nauticoak*, only by a ſmall Ridge of about 3 or 4 Rods Breadth.——And that the main Branch of the ſaid *Murderkill*, extends ſtill much further to the Weſtward. That one other Branch of *Murderkill* aforeſaid, *and* a Branch of *Choptank* River aforeſaid, take their *Riſe* from *one and the ſame* Marſh or Piece of low Ground, containing about 7 or 8 Acres.——That one of the Branches of *Lower* Creek, *and* of the ſaid River *Choptank*, take their *Riſe* from *one and the ſame* Piece of low Ground or Swamp, containing about 40 or 50 Acres.——And that *ſeveral* of the *Riſes* of the Rivers and Creeks aforeſaid, that empty themſelves into *Delaware* Bay aforeſaid, lie to the *Weſtward* of the *Riſes* of the ſaid Rivers that empty themſelves into the ſaid Bay of *Cheſopeake*; ſo that they *interlock* in *many Places*.

Note, Theſe 4 laſt Depoſitions are to *counterprove* an idle thing, attempted by one Witneſs for the Defendant, who wants to carry the Iſthmus (of *a Peninſula*) up, he himſelf knows not where, into the *main Continent*, he having found out *a Place* where two little Springs of Water *riſe*, very near together, within a Quarter of a Mile of each other, and which Waters he does not pretend are *Tide Waters*, or *flowing Waters* from the *Sea*, *Bays* or *Rivers*. To anſwer any Pretence, *therefore*, of *that* kind, we have proved what? Why that *down below*, in the *very Peninſula* itſelf, there are *many* ſuch Places, not only where the Spring *Heads almoſt* meet, but where they *quite* meet, and *more than* meet, for that they *interlock*; Nor is that all, for, we have gone *much farther*, and ſhewn *ſeveral* and *ſeveral* Waters, riſing in the very Peninſula *itſelf*, and from *one and the ſame* Swamp or Head, which run *one way* into *Cheſopeake*, and the *other way* into *Delaware*; and which, according to *this* Notion, would make the Peninſula (pardon the Abſurdity of the Expreſſion, for the ſake of expoſing the Abſurdity of the Point contended for) to conſiſt of *ſeveral compleat Iſlands*.

27th Branch, Proof where Lord *Baltimore*'s *oldeſt Line*, which he claimed in 1635, lies.

Benjamin Eaſtburn, aged 44. [*Lib.* C. *fol.* 678. *Int.* 129. *fol.* 704.] Has again lookt upon the Map markt *PEN*, and upon the Red Line therein, markt 1635, and ſays *that* Line is drawn *agreeable* to a *Line* drawn for the *Northern Bounds* of *Maryland* in *another* Map produced to him, whereon theſe Words (Map of *Maryland* 1635,—copied *per Herman Moll*) are endorſed, and at the top of the Inſide whereof is the Title *Nova Terræ Mariæ Tabula*.——And has *heard* and *believes* the *laſt-mentioned* Map was publiſht in the Year 1635, by Order of the then Lord *Baltimore* Proprietor of *Maryland*, and fixed in a *Book* publiſht by the ſame Proprietor, intitled, A Relation of *Maryland*, together with a Map of the Country, the Conditions of Plantations and his Majeſty's Charter to the Lord *Baltimore*, tranſlated into *Engliſh*.

Note, The Copy of Lord *Baltimore*'s Map of 1635, produced to this Witneſs in *America*, is an *exact* Copy made from that in Sir *Hans Sloane*'s Book, proved by Doctor *Stack* here.

And this Line proves *two very material* Things, *viz.*

1. That tho' Lord *Baltimore*, ſo early, claimed, above *all* the Bay of *Delaware*, above all the *Peninſula*, above the true *Iſthmus* of that Peninſula, and even to the *Head* of *Cheſopeake* Bay, and quite to the *Extremity* of the 40th Degree *compleat*, yet, *all that* was *South* of the Line which we have *now* granted to him by the preſent Articles by near 8 Miles——(And that Width of 8 Miles is 5 whole Degrees in Longitude)
2. It proves *where* he himſelf placed the Line of 40 *compleat* in 1635, namely, preciſely at the Head of *Cheſopeake* Bay, and 23 Miles *South* of every Part of *Philadelphia*.——But *now*, he ſays, *modern Diſcoveries* have carried the Line of 40 compleat up as high as, or even above, *Philadelphia*; ſo contends that his Grant of Part of a *Peninſula* ſhall alſo *grow* to that Extent up into the *main Continent*.

28th Branch, Proof where the *Octorara Line* run by Lord *Baltimore* in 1683, lies; alſo where the Line for *Temporary Juriſdiction*, lately run in 1739, by Order of the King in Council, lies.

Benjamin Eaſtburn, aged 44. [*Lib.* C. *fol.* 678. *Int.* 125. *fol.* 696.] Has lookt upon the Map now produced, markt *PEN*, and upon the *Line* in the ſaid Map markt *BAL.* ſays, the ſaid Line is called or known by the *ſeveral* Names of the *Octorara* Line, Colonel *Talbot*'s Line, and Lord *Baltimore*'s Line, but moſt commonly by the Names of the *Octorara* Line, and Lord *Baltimore*'s Line.——And ſays, that the *Reaſon* of the ſaid Line being called by the ſaid *ſeveral* Names, was, as he has heard and believes, the ſaid Line was run and markt out by one Colonel *Talbot*, from the *Mouth* of *Octoraro* Creek, as deſcribed in the ſaid Map; and that the ſame was ſo run and laid out by the Order and Direction of Lord *Baltimore*; and who, as he has heard, was *preſent* at the Running of the ſame Line or Part thereof. And ſays, he has heard and believes that the Courſe of the ſaid Line was run *from the Mouth* of the ſaid Creek *Eaſt*, *according to the Compaſs*.——Says, there are *ſeveral* People ſettled and dwelling upon the *South* Side of the ſaid Line, and *near* thereto, who hold their Lands by Grants from the Proprietor of *Maryland*, and own *that* Government.——And that as he believes, there are *not any Settlers* to the *Southward* of the ſaid Line (and to the *Weſtward* of the 3 lower Counties) who hold their Lands under the Proprietors of *Penſilvania*, or own the Government of *Penſilvania*.——And ſays, there are alſo *ſeveral* People ſettled upon the *North* Side of the ſaid Line, and *near* thereto; and that the *greateſt* Part of *them* hold their Lands by Grants from and under the *Penſilvania* Proprietors, and own that Government. And that there are alſo *ſome* People (but the Number of them he knows not) who are ſettled to the *Northward* of, and *near* to the ſaid Line, who hold their Lands by Grants from the Proprietor of *Maryland*, and own *that* Government; *and* that the *firſt* of *ſuch* Settlements under *Maryland* Rights, was not above 30 Years ago.——And ſays, he has lookt upon the ſaid Map, and upon the Line therein markt *TEM*. And ſays, the ſaid Line is called *The Temporary Limits* between the ſaid Provinces of *Penſilvania* and *Maryland*, and was run, *in purſuance of an Order of the King in Council*, in the Months of *April* and *May* 1739.——That the ſaid Line, *from* the Eaſt End thereof *as far* as the River *Suſquehanna*, was run, *by this Affirmant*, as a Surveyor on the Part of *Penſilvania*, and *William Rumſey*, and *John Ladd*, as Surveyors on the Part of *Maryland*, *under the Direction* of certain Commiſſioners appointed by the *reſpective* Governors of *both* the ſaid Provinces. And ſays the *Courſe* of the ſaid Line is *true Weſt*.——And that the ſaid Temporary Line, at the ſaid River *Suſquehanna*, is *between three and four Miles to the Northward of the Weſt End of the Line in the ſaid Map markt* BAL, *or* Octorara *Line aforeſaid*. And further ſays, that the *reſidue* of *the ſaid* Line, which is on the *Weſt* Side of *Suſquehanna* River, was run by this Affirmant and *Samuel Lightfoot*, according to the Directions of the ſaid Order of the King and Council, *The Place of Beginning of ſuch Reſidue* of the ſaid Temporary Line from the Weſt Side of *Suſquehanna* River aforeſaid, *being firſt ſettled and agreed upon* by and between the ſaid Commiſſioners on *both* ſides.

Note well, The Order made by the King in Council for running this Temporary Line for the Exerciſe of Juriſdiction, and to prevent Riots, was made in 1738, pending this Suit, Lord *Baltimore* would not conſent that the *very* Line of the Articles ſhould be run for that Temporary Limit, leſt it ſhould *confirm* the Articles; and yet it was to be ſomething *near* that Line, but not the *very Line* of the Articles; Therefore it was ordered, That, on the *Eaſt* Side of *Suſquehanna* River, the Temporary Line ſhould be (not *juſt fifteen* Miles, but) *fifteen Miles and a quarter* South of *Philadelphia*, and, on the *Weſt* Side of *Suſquehannah* River, (not juſt *fifteen* Miles, but) *fourteen Miles and three Quarters* South of *Philadelphia*.

This is *exceedingly material*, for hereby it appears that the *Temporary* Line, when 15 Miles *and a quarter*, is yet *near* four Miles (and the real Line of the *Articles* is full *four* Miles) *North* of the *Octorara* Line; juſt ſo much, and for the *whole Length* of the Longitude of *Penſilvania*, (*which is no leſs than five whole Degrees in Longitude*) have we given, by the preſent Articles, over and beyond the moſt exceſſive of all the Claims from time to time made by Lord *Baltimore*, and his Anceſtors, purely as a Conſideration, and a very large and ample one too, to buy off his Nominal Claim to the three lower Counties.——Nay, we have given a *great deal larger Space*; for pleaſe to remark the *Octorara* Line of 1683, was run Eaſt *according to the Compaſs*, and this Temporary Line is run *true* Eaſt and Weſt, allowing for the Variation; ſo that when you come to run any Diſtance Weſtwards, then inſtead of *four* Miles they will be 14 or 24 Miles, or a great deal more even than that aſunder; *All which* Space for the whole five Degrees of Longitude, we have granted to him, on our Part by the Articles, as the valuable Conſideration for purchaſing the Releaſe of his Claim to the three lower Counties, and all this Land ſo given by us to him, is at leaſt 26 Miles above every Part of the Bay of *Delaware*, and is *not* in the *Peninſula*, but up within the *main Continent*, at leaſt *ſeventeen Miles* further North than our true Iſthmus——And *at leaſt nine Miles* further North than the *upper* Iſthmus.——To ſuch a *great Degree* had his *former* Claims and Encroachments extended; and to ſo much greater a Degree, *beyond all that*, have we *now* given to purchaſe our Peace.

29th Branch, containing Proof of *many old* Maps *Foreign and Engliſh*, (made *before* the Year 1680) which lay down both Cape *Cornelius* and Cape *Hinlopen*, and in the ſame manner as the Map in queſtion did, alſo, *where our* Cape *Hinlopen* really lies; That the *whole* Country *thereabouts* was formerly called *Hinlopen*, as well as that particular Spot, that there *is* the Appearance of a Cape at our Cape *Hinlopen*; That the *South Bounds* of the *Whorekiln* Diſtrict, or *Suſſex* County, extended *thither*; That the *Dutch* had a *Boundary Tree* in *their* time, there; That Mr. *Penn* granted out Lands to *that* Place, (as ſoon as ever he had his Feoffments) particularly to the Duke of *York*, and ſeveral others; and ſtill poſſeſſes *very near* to it; and that the *firſt* Curſory Claim of *Maryland* a *little* North of that South Boundary, *began* but in the Year 1696; alſo an Account *for what Reaſons*, ſomething like the *Name* of *that old* Cape has, *lately*, been transferred *up* to the *Mouth* of *Delaware* Bay.

Thomas Græme aged 51. [*Lib.* C. *fol.* 666. *Int.* 130. *fol.* 672] Has lookt upon the Map, markt D U T, and ſays, that the *great* Bay or River laid down therein, next to *Cheſopeak* Bay, is now called *Delaware Bay*——That he has lookt upon the Place laid down there, for the *Entrance* into the ſaid Bay of *Delaware*. And ſays the Capes, that *form* the *Entrance* into the ſame Bay, *are*, in the ſaid Map, called Cape *Cornelius* and Cape *May*; To the Southward of which, there is *another* Cape laid down, in the ſaid Map, which is *there* called Cape *Hinlopen*——Does not *know* when the ſaid Map was printed or publiſhed; but ſays, he was at *Leyden* in *Holland*, in 1712, and there bought the ſaid Map, amongſt a Bundle of other Maps, all looſe, at a publick Auction.

Benjamin Eaſtburn, a Surveyor, aged 44. [*Lib.* C. *fol.* 678. *Int.* 130. *fol.* 705] Has lookt upon the ſaid Map markt D U T, and ſays, the *great* Bay or River laid down in the ſaid Map, next to the Bay of *Cheſapeak*, is now called *Delaware* Bay——*That there is a Cape* laid down in the ſaid Map, to the *Southward* of the *Entrance* into the ſaid Bay of *Delaware*, which *is* there called Cape *Hinlopen*——And the Weſtermoſt Cape, *which forms the Entrance* into the ſaid Bay, is there called Cape *Cornelius*, and the Eaſtermoſt Cape *May*. [What are the very Words of our Articles? at Cape *Hinlopen*, which lies *South* of Cape *Cornelius*]——Has ſeen *Maps* publiſht in a Book generally called *Ogilby*'s *America*, in *which* the *ſaid* Capes, to the beſt of his Memory, are *all* called by the *ſame* Names, given to them in the ſaid Map markt D U T——Has *never* ſeen *any* Map or Maps of the ſame Bay, which he believed were publiſht *before* the Year 1680, wherein they were called by *other* or different Names——Does not *know* when the ſaid Map markt D U T, was publiſht, but *believes* it was made a *long time ago*, and before the Year 1680. And the Reaſons of ſuch his Belief, are, that he has heard and believes, the *Dutch* were formerly in Poſſeſſion of the Province of *New York*, and all the Lands between it and *Delaware* Bay and River, and of the three Lower Counties of *Newcaſtle*, *Kent*, and *Suſſex* on *Delaware*; which Poſſeſſion they *ſurrendered* ſome time in 1664, to the *Engliſh*. And it appears by the ſaid Map, that all *thoſe* Counties and the ſeveral Parrs of *them*, repreſented in the ſaid Map, are diſtinguiſhed and called by their former *Dutch Names*; and *yet*, the ſeveral Parts of *Virginia* and *New-England*, *there*, laid down, are, for the moſt part, called and diſtinguiſhed by *Engliſh Names*.

Ferd. John Paris, [*Lib.* A. *Fol.* 195. *Int.* 20. *Fol.* 280.] That he doth not *know*, nor hath he any reaſon whatſoever to *believe*, that in the Entering into, or concluding, the ſaid Agreement with the Lord *Baltimore* there was *any manner of Deceit or Impoſition* put upon the Lord *Baltimore*, by deſcribing *two Capes* on the Eaſtern ſide of the Peninſula, *one* called Cape *Cornelius*, and the *other* called Cape *Hinlopen*; nor in laying down Cape *Hinlopen* below, or more Southward, than Cape *Cornelius*; and the *Reaſons* why this Deponent doth not believe that his Lordſhip was at all impoſed upon, or deceived *therein*, are, that the Lord *Baltimore*'s *own* written Map, ſo produced and mark'd by him, appeared to contain *both* the ſaid Capes, with *their Names*, in the *like* manner, as the written Map ſo produced by the Plaintiffs, or one of them did. And not only ſo, but this Deponent hath ſeen *printed Maps* which appear to be (and this Deponent ſuppoſes the ſame are) old *foreign Maps*; and hath alſo ſeen a large *printed Work* of ſeveral *Volumes* in Folio, ſaid to be done by *John Ogilby* Eſq; Coſmographer and Geographick Printer to the late King *Charles* the Second, and ſaid to be printed (and which this Deponent ſuppoſes might be printed) in *the Year* 1671, *before* the Date of any of the ſaid Grants to Proprietary *William Penn*; in one of the Volumes of which Work, now produced and ſhewn to this Deponent, and Letter'd on the Back thereof (*Mr.* Ogilby's *Atlas*, *Tom.* 2.) a *printed Map* is contained, between Fol. 168 and 169, wherein *both* the ſaid Capes are *clearly* and *diſtinctly* mark'd, in ſome ſuch like manner, to this Deponent's Belief and Apprehenſion, as they were in the Lord *Baltimore*'s, and in the Plaintiffs reſpective written Maps, ſo produced as aforeſaid.

James Logan, aged 66. [*Lib.* B. *Fol.* 76. *Int.* 11. *Fol.* 109.] Saith as he has collected from his Reading, that, after the Northern Continent of *America* had been diſcovered by *Sebaſtian Cabot*, ſometime before the Year 1500, by Commiſſion from King *Henry* the Seventh of *England*, the *firſt Engliſhman*, that this Affirmant finds to have taken Notice of the Bay and River now called *Delaware*, was the Lord *Delaware*, who in his Voyage to *Virginia* as Governor of that Colony, in the Year 1610, ſeems to have given it *that* Name, ſome time after which, it is moſt certain, that the *Dutch* were the *firſt* that took Poſſeſſion of the *Land* upon the ſaid River and Bay; and *Cornelius May*, a *Dutch* Skipper, in his Voyage to *New Netherland* appears to have given his *Chriſtian* Name to the *Southern* Cape, and his Surname to the *Northern* Cape of the ſaid Bay, which Name the ſaid *Northern* Cape retains to this Day; and from the ſaid *Cornelius* it appears, that *ſome* Place in the ſaid Bay, was called *Newport May*; and ſaith, that he finds alſo, by the *Swediſh Hiſtories*, that,

that *Guſtavus Adolphus*, King of *Sweden*, who was killed at the Battle of *Lutzen* in *Germany*, in the Year 1632, had in his Life-time, ſent a Colony of *Swedes* into the ſaid Bay and River; but is well aſſured, from the ſaid Hiſtories, that under the Reign of *Chriſtiana*, Queen of *Sweden*, between the Years 1640 and 1645, a *large Colony* of that Nation were ſent into the ſame Bay and River, who built *ſeveral Forts*, and made conſiderable *Settlements*, very ſoon after their Arrival there; particularly at *Elſenburgh*, on the *Eaſt* Side of the ſaid Bay; and on the *Weſt* of the ſaid River, upon *Chriſtiana* Creek, ſo called from the ſaid Queen's Name; alſo at or near *Upland*, which Name *that* Place retained till the Proprietor *William Penn*'s Arrival, who changed it into that of *Cheſter*; And further ſaith, that after this, (as he finds by the ſaid Hiſtories) in the Year 1655, the *Dutch* Government of *New Netherland*, conſidering thoſe Settlements of the *Swedes* as an Intruſion and Invaſion of *their* Right and *former* Poſſeſſion, ſent a military Force ſufficient to diſlodge them; upon which the *Swedes ſubmitted*, and from that time acknowledged the *Dutch* Government. But in the Year 1664, (as he has collected from Hiſtories) a Fleet was fitted out from *England*, to reaſſert the ancient *Engliſh* Claim, as Prior to all the others Poſſeſſions; which Fleet *firſt* attacking the Fort at *New Amſtell*, now called *New York*, took the ſame from the *Dutch* by Surrender; as alſo very ſoon after, the Bay and River of *Delaware*, which having been, before that Time, called by the *Dutch South-River* (in contradiction to *Hudſon*'s River, which was called by them the *North River*) the ſaid River, from that Time of its Capture, had its firſt Name of *Delaware* reſtored to it. And farther ſaith, that from the ſaid Year 1664, to the Year 1673, the Country upon the ſaid Bay and River, continued under the *Engliſh* Government, and received divers Inhabitants from *New York* and *Long Iſland*; but the *Dutch* having in the War declared by *England* againſt the States General in 1672, *retaken* the Colony of *New York*, and *with it* the ſaid Bay and River of *Delaware*, the ſame were *reſurrendred* by the *Dutch*, to the *Engliſh*, by the Treaty of *London* in *February* 1673; and, from *that* Time, the ſaid Country hath *ever ſince* continued under the *Engliſh* Government, and particularly under the Government of the *Duke of* York till *March* 168$\frac{8}{9}$; at which time the *upper* and *Weſt ſide* of the ſaid River, *beginning* 12 Miles *Northward* of *Newcaſtle* Town, was by the Patent from King *Charles* the Second, granted to the ſaid *William Penn*, with large Powers of Government, under the Title of the Province of *Penſilvania*, and the following Year, *viz.* in *Auguſt* 1682, the ſaid *William Penn* obtaining Grants, from the ſaid Duke of *York* of all the Lands on the *Weſt ſide* of the ſaid River and Bay of *Delaware*, *Southwards* of 12 Miles *Diſtance* from *Newcaſtle*, to the Cape, he, in the ſaid Year 1682, arrived himſelf in the ſaid Province, and tranſported thither, from *England*, a *vaſt Colony*, in 32 *Ships*, at *ſundry times before he* himſelf left the Country in 1684; in which Expedition, during the ſaid *William Penn*'s continuance in the Country, (which did not amount to the full Term of 2 Years) he the ſaid *William Penn* (as this Witneſs is well *aſſured* from the *intimate Acquaintance* he had afterwards with the ſaid *William Penn*'s *Affairs*) expended *not leſs* than a *Sum between* 6 and 10,000 *l.* Sterling. And further ſaith, that the ſaid Province of *Penſilvania*, and the three Lower Counties, are *well known* to be now *very populous*, and in *flouriſhing Condition*, but can't poſſibly give an Account of the *Number* of Taxables, or People in General, in the ſaid 3 Lower Counties, having never in the Courſe of *his* Buſineſs had occaſion to be acquainted therewith.

The ſame, [*Int.* 29. *Fol.* 149.] That he is acquainted with the *Bay* of *Delaware*, having gone twice down the ſaid Bay to Sea, and came twice up the ſame from Sea; but never had occaſion to obſerve the *Capes* thereof. That he has ſeen *ſeveral Maps* of that Part of *America*, publiſhed before the Year 1680, but having no previous Notice of being interrogated thereto, this Affirmant is not ſo well prepared to anſwer as he otherwiſe might have been, but well remembers to have ſeen *Captain* John Smith's *Map* mentioned in the Affirmant's Anſwer to one of the preceeding Interrogatories; and alſo has ſeen *a Map*, publiſhed by the Lord *Baltimore* himſelf in *the Year* 1635, with a particular Account of his Province of *Maryland*, which this Affirmant preſumes will be produced upon the Hearing of this Cauſe, but does not remember, in the ſaid Map, any Notice was taken of the *Capes* of *Delaware* aforeſaid; that the Affirmant has alſo ſeen *a Dutch Map of New Netherland*, which appeared to him, to have been publiſhed *while* the Country was *in* the *Poſſeſſion* of the *Dutch*; the Author of which, to the beſt of this Affirmant's Remembrance, was *Jonckers*; and alſo this Affirmant has ſeen a Map publiſhed in *Ogilby*'s *America*, which, to the beſt of his Remembrance, was *printed* in the Year 1671, in *both* which laſt mentioned *Maps*, there are *two Capes* expreſſed or laid down to the *Southward* of the ſaid Bay of *Delaware*; the moſt *Northerly* whereof was *therein* called Cape *Cornelius*, and the more *Southerly* (*now* generally called the *falſe Cape*) was therein called Cape *Henlopen* or *Hinlopen*. And this Affirmant further ſaith that the *true Name* of the ſaid laſt mentioned Cape appears to have been taken from the Word [*Heenloopeen*] according to the *true* way of ſpelling it, which word, being *Dutch*, is in the *Dutch* and *Engliſh* Dictionary publiſh'd at *Amſterdam* by *William Sewell* in the Year 1708, there interpreted (to *run away*;) but the word (*Inlopen*) in this Interrogatory mentioned, he conceives ought to have been wrote (*Inloopen*) which in the ſaid Dictionary is interpreted [to run in, to flow, or ſtream into.] And the Affirmant ſaith, that he hath been very credibly *informed* that the moſt *Southerly* of the ſaid Capes, at ſome Diſtance from the Southward at *Sea*, makes the plain *Appearance* of *a Cape*; but Navigators finding it otherwiſe, upon a nearer *Approach*, gave it the aforeſaid Name of *Hinlopen* or *Heenloopeen*, *implying* that it vaniſhes or *diſappears*, and in proceſs of Time, the Term was changed into *Inloopen*, and transferred to the more *Northerly*, and *real* Cape and *Entrance* into the ſaid Bay of *Delaware*; as more properly ſuiting the ſame.

Thomas Noxon, aged 40. [*Lib.* C. *Fol.* 488. *Int.* 29. *Fol.* 507.] Is pretty well acquainted with the *Bay* of *Delaware*, which he has known about 20 Years, and has twice *by Sea* come into and gone out of the ſaid Bay, and gone up and down the ſame.—That the *true* Southern Cape, which forms the *Mouth* of *Delaware* Bay, is the Cape near *Lewes* Town,—but to the *Southward* of *that* Cape, and about 7 *or* 8 *Miles* to the *Southward* of *Indian River*, upon *Fenwick's Iſland*, there *is* the Appearance of *another Cape*, *well known to Sailors* by the Name of *the falſe Cape*, which the Deponent hath heard *frequently* called Cape *Henlopen* by *ancient People*—which *laſt-mentioned* Cape, from the *Sea-ward* at a *Diſtance*, has the *Appearance* of *a Cape*, but as it is approached *nearer*, that Appearance *vaniſhes*.—Says that, about *nineteen* Years ago, the Deponent coming from *Jamaica* in a Veſſel bound for *New York*, in ſome diſtreſs, endeavoured to make ſome Land to the *Weſtward*; that the firſt Land they made was the ſaid *falſe Cape*, which the Mariners on Board, from its *appearing like a Cape*, apprehended it was the Southern Cape that *forms* the *Entrance* of the ſaid Bay of *Delaware*.—That an ancient Sailor, then on Board, who ſaid he had been *thirty* Years at Sea, and part of that time in the *Dutch* Service, *ſaid it was the falſe Cape*, *that the* Dutch *had called Cape* Hinlopen, which, he ſaid, *ſignified in* Engliſh, *Cape running away*, or *diſappearing*.—That the Commander of the Veſſel, diſcrediting what the ſaid Sailor had ſaid, ſtood in towards the ſame, till the *main Land* riſe, and they came into the *Shoal Water*; and *then*, they found that the ſaid *Appearance*, as a Cape aforeſaid, had *vaniſhed*.—That thereupon, they ſtood away to the *Eaſtward*, and afterwards, ſaw the *true* Southern Cape of *Delaware Bay*.—Further ſays, he has ſeen a *Map* in *Ogilby*'s Book of *America*, and *three others*, (which he takes to be either *Dutch* Maps, or Extracts from *them*, by the Names of the Places being wrote in the *Dutch* Tongue) and which he apprehends were made *before* 1680, wherein the ſaid *falſe Cape* is *laid down*, by the Name of Cape *Hinlopen*, and the ſaid *true* Cape by the Name of Cape *Cornelius*.—He underſtands the *Dutch* Tongue pretty well, and believes the ſaid Interpretation of the Words Cape *Hinlopen*, which are *Dutch* Words, was *rightly given*, by the ſaid Sailor as aforeſaid.—Does not underſtand the meaning of the Words *Capin lopen*, taken together, but underſtands the Word *lopen*, which is alſo a *Dutch* Word, and ſignifies *running* or *going*, in *Engliſh*.—That the *Diſtance* between the *true* and *falſe* Capes aforeſaid he believes to be near or about 20 *Engliſh* Miles.

Thomas James, Pilot, aged 49. [*Lib.* B. *Fol.* 30. *Int.* 29. *Fol.* 33.] That he has obſerved the *Capes*, that from (form) the *Entrance* into the Bay of *Delaware*, which are *now* called Cape *May* and Cape *Hinlopen*, and that, to the *Southward* of the *Entrance* into the ſaid Bay, there is the *Appearance* of *two Capes*, tho' in *reality* there is only one *true* Cape, and which is the moſt *Northerly*, and is *now* called *Cape Hinlopen*. That this Deponent hath *ſeen* ſome old *Swediſh* and *Dutch Drafts* of the Bay and River of *Delaware*, which to the beſt of this Deponent's Remembrance, bore Date about the Year 1672; and that in *thoſe* Drafts there was but *one* Cape laid down to the Southward of the ſaid Bay, which was called in the ſaid Drafts Cape *Cornelius*, and is the Cape at the *Entrance* of the ſaid Bay, *now* called Cape *Hinlopen*.

The ſame, [*Int.* 19. *Fol.* 30.] Has been acquainted with the Bay and River of *Delaware*, and with the Sea-Coaſt, to the *Southward of the Entrance* into the Bay, for 40 *Years* paſt; having, for *all that Time* uſed the Sea, and has been a Commander and Pilot of Veſſels, for *about* 28 *Years* of ſaid Time. That upon *the Sea Coaſt*, to *the Southward of the Entrance* into the ſaid Bay, and about 18 Miles from the ſaid Entrance, *there is the Appearance of a Cape*, which off, at a Diſtance, at Sea, and upon the *firſt making of it*, from the Southward or Eaſtward, appears *bluff*, and *like the upper Cape* at the *Entrance* of the ſaid Bay, *now* called Cape *Hinlopen*; but as you ſail to the Northward, and *approach nearer* the ſame, it *decreaſes* and diſappears; for which Reaſon it is ſometimes called the *falſe* Cape. That the ſaid Place which has the *Appearance* of a Cape aforeſaid, has *been formerly called Cape* Hinlopen; and this Deponent has been informed by his Father, who was a *Mariner*, that the ſame *was alſo ſometimes called Cape* James, *or Cape* Hinlopen, *and ſometimes the* Falſe Cape.——That the before-mentioned Cape, at the *Mouth* or Entrance of *Delaware* Bay, is *now*, and has been, ever ſince *this Deponent* uſed the Sea, called by the Name of Cape *Hinlopen*, but has heard his Father ſay, that, in *the old Drafts*, it was called Cape *Cornelius*; but that he himſelf and *other old Commanders* called it Cape *Hinlopen*.

George Fitzwater, aged 66. the Defendant's Witneſs, but croſs-examined, [*Lib.* C. *Fol.* 469. *Int.* 19. *Fol.* 471.] That he became, and has been acquainted with the *Bay* and *River* of *Delaware* and the *Sea-Coaſt* to the Southward of the *Entrance* into the ſaid *Bay*, ever ſince *the Year* 1706 *or* 1707, by making ſeveral Voyages from *Penſilvania* to the *Weſt-Indies*, and paſſing to and fro, through the ſaid Bay and River, and *frequently* falling in with the ſaid *Sea-Coaſt*, to the *Southward* of the ſaid Bay, and ſailing along *that Shore*. And ſaith that *he* this Affirmant has *frequently obſerved*, at his coming in from Sea, that, upon the ſaid Sea-Coaſt, at about 6 or 7 Leagues from the *Mouth* or *Entrance* of the ſaid Bay, there is *the Appearance of a Cape*, which, upon the *firſt* deſcrying or making the ſame, *off at Diſtance*, from Sea, looks *bold*, and *like* the *upper* Cape, which is to the *Northward* thereof, at the Entrance, or *Mouth* of the ſaid Bay; but, *upon approaching* or coming nearer to it, the ſame *loſes the Appearance* of a Cape, and is, *therefore*, called the *falſe Cape*; and as this Affirmant has heard and believes, the ſame *was*, *anciently*, *called by the* Dutch, *Cape Inlope*, but ſince *his* Acquaintance therewith, has been generally called the *falſe* Cape.

Elizabeth Morris, aged 65. [*Lib.* B. *Fol.* 49. *Int.* 20. *Fol.* 50.] That ſhe has known the three Counties now called *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, and the Town now called *Lewes*, for *about* 55 *Years*, which Town, formerly, before it was called *Lewes*, was called the *Whorekill*, by the *Dutch*, *and all othe s*. That the County of *Suſſex* aforeſaid, before it was called by that Name, was generally called and known by the Name of the *Whorekill County*. And that *Lewis* Town aforeſaid was formerly in the County called *Whorekill*, but now is in *Suſſex* County aforeſaid. Saith that ſhe has *heard*, from her Father, and others, that the ſaid County, now called *Suſſex*, was formerly, under the *Government of* New-York, and *knows* it has ſince, been under the Government of the Proprietors of *Penſilvania*, as one of the three Lower Counties, *which were called the Terriories of* Penſilvania, but *never heard* the ſaid County of *Suſſex* was ever *under* the Government of the Proprietors of *Maryland*. That the *ſaid County*, now called *Suſſex*, ſince it has been under the Government of Proprietors of *Penſilvania*, *did extend Southerly beyond the* Indian *River*; which the Affirmant *well remembers*, becauſe *ſeveral* Perſons, particularly the *Burtons*, *Stoakleys*, and one *Fennicks*, (who the Affirmant heard owned *Fennicks Iſland*) lived to the *Southward* of that River, under the Government of the Proprietors of *Penſilvania*; and that *divers* Perſons uſed to come, *from beyond* that River, and attend *Suſſex County-Court*. And ſaith that ſhe has heard and believes, that there was *a Tree*, marked by the *Dutch*, to the *Southward* of *Indian* River, as a *Boundary* between the ſaid County and the Province of *Maryland*, which has been long ſince cut down, upon which a *Plate of Braſs* was fixed, with the Figure of a *Ship* upon it, but the *particular Place* where the ſame Tree ſtood, knows not; That ſhe *never* knew or *heard*, that any *Force* or Compulſion have been uſed, by the Proprietors of *Penſilvania*, or any Perſons pretending Authority under them, to *oblige* the People of *Lewes* Town aforeſaid, or the Inhabitants living to the South ſide of *Indian* River, or within the Bounds or reputed Bounds of the ſaid County of *Suſſex*, to ſubmit to the Government of the Proprietor of *Penſilvania*, or to acknowledge him for their Proprietor or Landlord, but ſaith that about 30 or 40 Years ago, ſhe heard, and believes, that ſeveral Perſons, reſiding in the *Southward* of *Indian* River aforeſaid, under the Government of the Proprietor of *Penſilvania*, *were diſturbed* in their Poſſeſſions, *by Perſons* claiming Authority under the Proprietor of *Maryland*, in order to compel a Submiſſion to his Government, and particularly heard from one *Hill and his Wife*, that his Cattle were drove off their Land, for that Purpoſe; and that ſhe has heard from her Father, *deceaſed*, and *many others*, that *there was a Cape*, as well as ſhe remembers, to the *Southward of* Indian *River* (but knows not certainly *where*) which was eſteemed the *Bound of Suſſex County*.

Samuel Preſton Eſq; aged 75. [*Lib.* B. *fol.* 312. *Int.* 20. *fol.* 327.] That he *knows* the Bay and River of *Delaware*, and the three Lower Counties of *Newcaſtle*, *Kent* and *Suſſex*, and that he hath known *Lewes-Town and Indian-River* in this Interrogatory mentioned, *about fifty* Years; And ſaith that *Lewes-Town* aforeſaid was called the *Whorekill*, before the coming of *William Penn* Eſq; into *Penſilvania*, and while the ſaid Town was under the Government of *New-York*; but after it came under the Government of the ſaid *William Penn*, the Name thereof was *changed* to *Lewes-Town*; and that the ſaid County now called *Suſſex*, was always called by *that* Name, ſince the Affirmant knew it; but, before, and whilſt the ſame was under the *Dutch*, that County (as this Affirmant heard and believes) was generally called *Whorekill County*; And that the ſaid County of *Suſſex*, when this Affirmant *firſt* knew it, was under the Government of the ſaid *William Penn*, and, as he believes, was *never* under the Government of the Defendant, or any of his Anceſtors. And this Affirmant further ſaith, that the ſaid County of *Suſſex* was *then generally* reputed and *believed to extend* to a *ſmall Inlett* called *Aſſawaman*, which was then about *ten Miles to the Southward of Indian River*, and 20 Miles and upwards from and to the *Southward of Lewes-Town aforeſaid*. And ſaith that he became acquainted with the *Southern* Bounds of the ſaid County, by his being an Inhabitant there for *ſeveral* Years, and being led by the Nature of his Buſineſs to a general Knowledge of the ſaid County, and the Inhabitants thereof. And alſo ſaith that it was *generally* reputed, when this Affirmant *firſt* became acquainted with the ſaid County, that the *Dutch* had *claimed* the ſame as far as the Inlett called *Aſſawaman*, and near to, or at, a Place called *Fenicke's Iſland*; and that, near *Aſſawaman* aforeſaid, they had *ſet up a Standard*, either upon a *Tree* or a Poſt, with a *Braſs-Plate*, or *Braſs-Nails*, as a *Mark of their Claim*. And ſaith, that he has heard and believes, and it was *then* ſo *generally* reputed and underſtood, that, ſoon after the ſaid *William Penn*'s becoming Proprietor of *Penſilvania*, and the ſaid three Lower Counties, a *Mannor* was laid out, by or under the ſaid *William Penn*'s Directions, *near Aſſawaman Inlett aforeſaid*, and was called the *Duke of York's Mannor*; That there were ſome Chriſtian People ſettled to the *Southward of Indian River aforeſaid*, and within the reputed Bounds of *Suſſex County aforeſaid*, when this Affirmant *firſt knew* the ſame, and who lived under the Government of the ſaid *William Penn*; and that he never knew or *heard*, that *any* Force or Compulſion was *ever* uſed by any of the Proprietors of *Penſilvania* to oblige the Inhabitants of *Lewes-Town*, and thoſe living to the Southward thereof, and *Indian* River aforeſaid, and within the reputed Bounds of *Suſſex* County aforeſaid, to ſubmit to *that* Government, or to acknowledge them as their Proprietors or Landlords. And ſaith, that he this Affirmant does not *know* of any other Force or Compulſion being uſed by the Defendant or any of his Anceſtors, Proprietors of *Maryland*, to oblige the Inhabitants

bitants of *Lewes-Town* aforeſaid, or thoſe to the Southward thereof, within the reputed Bounds of *Suſſex* County aforeſaid, to ſubmit to the Government, *ſave* that he remembers to have heard it *currently* reported *many Years* ago, that Colonel *Whittington* then Sheriff of *Somerſet* County in *Maryland*, had threatned the People living under the Government of *Penſilvania* to the *Southward* of, and near *Indian River* aforeſaid, That if they did not pay *him* ſome Taxes which he claimed from them, he would make *Diſtreſs* upon them for the ſame. And the Affirmant further ſaith, that he has *very frequently* heard it ſaid by *Navigators*, that upon the Sea-Coaſt, about 25 Miles to the *Southward* of the *Mouth* of *Delaware* Bay, there is a *Head-Land*, which off at a Diſtance from Sea, has the *Appearance* of a Cape, and is called Cape *Henlopen*, but upon a near Approach, the ſame loſes the Appearance of a Cape, and that he this Affirmant *has ſeen the ſaid falſe Cape*, laid down in *ſeveral Dutch Maps* as a Cape, and therein called *Cape Henlopen*.

John Teague of *Maryland*, Planter, aged 85. [*Lib.* B. *fol.* 225. *Int.* 20. *fol.* 225.] That he *knows* the Bay and River of *Delaware*, and the Counties of *Newcaſtle*, *Kent* and *Suſſex*, in this Interrogatory mentioned, and that he has known the Town, now called *Lewes* in the County of *Suſſex*, for *near* 50 *Years*; and ſaith that the ſame was formerly called *Whorekiln*, and retained *that* Name, till about 18 *or* 19 *Years ago*, when it was changed to that of *Lewes*; and that he has alſo known *Indian River* in the Interrogatory mentioned, for *near* 50 *Years*. And ſaith that the ſaid County of *Suſſex* was formerly called the *Whorekill* by the *Engliſh*, *Dutch*, and other People in general; and that the ſame continued to be called ſo for many Years after this Deponent firſt knew it, but how many Years cannot now ſay; That *then* the Name of that was changed into that of *Suſſex County*. And further ſaith, that the *County* wherein the ſaid Town now called *Lewes* ſtood, when this Deponent *firſt knew* the ſame, was called the *Whorekill*, and is now called *Suſſex* County, and was *then* under the Government of the ſaid *William Penn*; And that this Deponent *never* heard that the ſame was under the Government of the Lord *Baltimore*, or the Government of *New-York*; And ſaith that the ſaid County, antiently called the *Whorekill*, and now *Suſſex County*, when this Deponent *firſt* knew the ſame, extended *beyond*, or to the *Southward of*, *Indian River aforeſaid*, and to *a Place called Phenix's Iſland*, where this Deponent has been, and was *there told*, that *that* was the *Extent* of the ſaid County to the *Southward*. And this Deponent ſaith, that about *three or four Years after the Duke of Monmouth's Rebellion in England*, but the exact Number of Years ago this Deponent doth not now remember, he this Deponent was at the ſaid Place, called *Phenix's Iſland*, in Company with two Perſons, who there ſhewed this Deponent a *Square Poſt* of about *ſeven Foot high*, with a *pointed Head*, which had *three Braſs-Nails* driven into *three* of the Sides of the ſaid Poſt, the Heads of which Nails were near the Size of an *Engliſh Ha'fpenny*; and which Poſt *this Deponent* ſuppoſed had been fixed there by the *Indians*, till *he was told* by the ſaid *two* Perſons, and afterwards by *ſeveral others*, that they believed the ſame had been placed there by the *Dutch*. And ſaith that he heard, *ſome time* after, that there was alſo found, upon the *ſaid Iſland*, near, but *further* to the *Southward* of the ſaid Poſt, a *Tree*, whereon was a *Plate of Braſs*, which, having been grown over with the Bark, was diſcovered, upon cutting up and ſplitting the ſaid Tree into *Fence-Rails*, which Information, relating to the ſaid *Tree and Plate of Braſs*, this Deponent had from the Son of one *Thomas Mumford*, who told this Deponent he had it from his Father, who had lived with Mr. *Phenix*, *upon the ſaid Iſland*, and alſo *from many others*; And that he this Deponent has likewiſe heard that to the *Weſt* or *North-weſtward* of the ſaid Iſland, and within about *Half a Mile thereof*, had been alſo found *another Tree* markt on two ſides thereof, with *three Notches*; That this Deponent does not know that there were any Chriſtian People ſettled to the *Southward* of *Indian* River aforeſaid, and between it and *Phenix*'s Iſland, when he *firſt* knew the ſaid Places, but that ſome time *after*, *one Barton* came up from *Virginia*, and ſettled on the *South-ſide* of the Mouth of the ſaid *Indian River*. That this Deponent does not know, or has ever heard, that *any* Force or Compulſion was ever uſed by the Proprietors of *Penſilvania*, or any other Perſons pretending Authority under them, to *oblige* the People of *Lewes-Town*, or the Inhabitants living on the South-ſide of *Indian* River, to ſubmit to *that* Government; but ſaith that about 50 *Years ago*, this Deponent, with five others, were preſt by the Under-Sheriff of *Somerſet* County, to go and aſſiſt him to arreſt one *Peter Waples* for Debt, to the *Southward* of and near *Indian River* aforeſaid, but the People there *oppoſed* them, and *reſcued* the ſaid Priſoner from them; *alledging*, that the ſaid Under-Sheriff and his Aſſiſtants *were out of their Precincts*, being within the Government of Mr. *Penn* the Proprietor of *Penſilvania*. And further ſaith, that he being ſummoned up to *Annapolis*, with two others, to be Evidences, to give Information of the ſaid Oppoſition, made by the ſaid People at *Indian* River, he remembers *the Lawyers* there declared, that if the ſaid Under-Sheriff and his Aſſiſtants had had their *Bones broken*, their Remedy would have been in *their own Hands*. And ſaith that afterwards *Ephraim Wilſon*, Sheriff of *Somerſet* County, went up, with a Troop of Horſe, as this Deponent was *informed*, and apprehended the ſaid *Waples*, and carried him bound to *Somerſet* County Priſon; And ſaith that *about* 50 *Years ago*, the Land about *Phenix's Iſland aforeſaid*, and from that, *all along to the South-ſide of Indian River* aforeſaid, *was called Cape Inlope*. And this Deponent further ſaith, that *about* 50 *Years ago*, as he was conducting two *Dutchmen*, who he ſuppoſed were *Privateers*, from *Somerſet* County aforeſaid, to *Whorekill*, now called *Lewes-Town*, this Deponent remembers that, about *four Miles to the Southward of Indian River aforeſaid*, the ſaid *Dutchmen* declared *they then knew where they were*, for that they were at *Cape Inlopen*.

* *William Waples*, aged 63. [*Lib.* B. *fol.* 248. *Int.* 20. *fol.* 249.] That he has ſeen the Bay and River in the Interrogatory mentioned, but is not well acquainted with them. That he is well acquainted with the County of *Suſſex* on *Delaware*, and has been in the Counties of *Newcaſtle* and *Kent*, but is not well acquainted with them. And ſaith, that he has *known the Indian River* and *Lewes-Town*, in the Interrogatory mentioned, *about* 47 *or* 48 *Years*, which Town and the ſaid County of *Suſſex*, when the Deponent *firſt* knew them, were by the Inhabitants and others, *both called Whorekill*, and were under the Government of *William Penn Eſq*; and that the ſaid Town is now in *Suſſex* County aforeſaid; And this Deponent further ſaith, that when he *firſt* knew the ſaid County of *Suſſex*, his Father ſettled under the ſaid *William Penn*, *on the South-ſide of the Indian River aforeſaid*, about three Miles up a Creek, that emptied itſelf into the *South-ſide* of the ſaid River, upon Land which he purchaſed of Preſident *Clarke*, and ſaith that he this Deponent being young then, knew not how far the ſame County extended to the *Southward*; but *then* heard that the ſaid *William Penn* claimed as far as *Fenicks's Inlett*, near *Fenicks's Iſland*; *near which Inlett*, *at a Place* called *Inlopen*, or *Hinlopen*, he *then* heard there had been a *Standard* or *Poſt* put up by, or for the ſaid *William Penn*, or ſome other Perſon who was in Poſſeſſion *before him*, with ſome *Braſs* upon it. And further ſaith, that there were *about ten Families ſettled* to the *Southward of Indian River aforeſaid*, between that and the ſaid Inlett; amongſt whom was *one Stockely* a Magiſtrate for the ſaid County, then called *Whorekill* County; one *David Jenkins a Conſtable* for the ſame County, under the Government of the ſaid *William Penn*; That he has *never heard* that the Proprietors of *Penſilvania*, or any Perſons pretending Authority under them, *ever* uſed *any Force* or Compulſion to oblige the Inhabitants of *Lewes-Town* aforeſaid, or the People reſiding to the *Southward* of *Indian* River aforeſaid, and above the ſaid Inletts, to ſubmit to the Government of the ſame Proprietors, or to acknowledge *them* for their Proprietors or Landlords. And further ſaith, that about 44 *or* 45 *Years ago* the Under-Sheriff of *Somerſet* County in *Maryland*, by virtue of a Writ from the County Court of that County, arreſted his Father where he was ſettled, as the Deponent has above declared, and that his Father refuſed to acknowledge the *Juriſdiction* of the ſaid Court, alledging he lived in *Suſſex* or *Whorekill* County; And that thereupon the ſaid Sheriff departed, and in about a Fortnight after returned, with five Men, and took his Father and tied him; Whereupon four of the Neighbours were ſent for, and came there; That a Perſon ſtanding in the Houſe, named *Charles Tindal*, ſaid, what will you tie a Man in his own Houſe, and taking a Gun down from a Rack, ſaid, he would clear the Houſe of them; and thereupon his Father was untied; And ſaith that a Perſon who was reputed a Man of Subſtance there, offered to become Bail for his Father; to which the ſaid Sheriff replied, that if he would go *down to St. Martins*, he would accept of him for Bail. To which his Father anſwered, that except he would take Bail, *where* he had arreſted him, he would not give any, for if he had not a Right to take Bail *there*, he had no Right to arreſt him *there*, and that, afterwards, the ſaid Under-Sheriff and the five Men aforeſaid, departed; Which ſaid Under-Sheriff, in about a Fortnight's Time, returned with the High Sheriff of *Somerſet* County aforeſaid, and *about* 20 *Men with Arms with him*, and ſeized and bound this Deponent's Father, and the ſaid *Charles Tindal*, and carried them down to *Somerſet* County aforeſaid. And ſaith that he heard from his Father, and *believes*, that he was proſecuted in *Somerſet* County aforeſaid, and at *Annapolis* in the Province of *Maryland*, for not obeying the ſaid Sheriff, which coſt him a great Sum of Money; and that in ſome ſmall time *after* the ſaid *Arreſt*, the Inhabitants, reſiding on the South-ſide of *Indian* River aforeſaid, ſubmitted to the Government of *Maryland*.

David Hazard of *Maryland*, Planter, aged 73. [*Lib.* B. *fol.* 239. *Int.* 20. *fol.* 240.] That he has known the Bay and River of *Delaware*, and the Counties of *Newcaſtle*, *Kent* and *Suſſex*, for upwards of 36 *Years paſt*, and has known the Town called *Lewes* and *Indian River* in this Interrogatory mentioned, 46 *Years*, which Town, when he *firſt* knew it, was generally called the *Whorekill*, and the ſaid County of *Suſſex*, when he *firſt* knew it, was alſo generally called *Whorekill*, and was under the Government of *William Penn* Eſq; as he was informed; That he cannot ſay *how far* the ſame County *then* extended to the *Southward* of *Lewes-Town* aforeſaid, but ſuppoſes it extended *beyond Indian* River aforeſaid; *becauſe* ſome of the Officers, to wit, a *Juſtice of the Peace*, and a *Conſtable* for the ſame County, reſided to the *Southward of the ſame River*. And this Deponent further ſaith, that it has been rumoured, *as long as he can remember*, that there was a *Tree*, on *Fenicks's Iſland*, in which there were *Braſs Nails* drove, as it was ſaid by ſome *Dutch* who landed there and claimed it as *their* Land; and that he was told by an *antient Man*, of good Credit, named *Hugh Tingle*, who lived within a Mile or two of *Fenicke's* Iſland aforeſaid; That the ſaid *Nails* were drove into the ſaid Tree in the Form of a *Horſeſhoe*, but does not remember that the ſaid *Tingle* ſaid he ever *ſaw* the ſaid Tree. And this Deponent further ſaith, that, when he *firſt* knew the ſaid County of *Suſſex*, there were *about half a ſcore* Chriſtian Families ſettled to the *Southward* of *Indian* River, *near to the ſame River*, and on the Sea-Coaſt between the ſame River and *Fenicks's Iſland aforeſaid*; which Families were under the Governmeut of *William Penn*; but the *South Bounds* of the ſaid County he never *knew*. That he has never heard that the Proprietors of *Penſilvania*, or any Perſons pretending Authority under them, ever uſed any *Force* or Compulſion to oblige the Inhabitants of *Lewes-Town*, or the People reſiding on the South-ſide of *Indian* River, to ſubmit to the Government of the ſame Proprietors, or to acknowledge *them* for their Proprietors or Landlords; And ſaith, that he has heard and *believes*, that one *Waples* removed from the lower Part of *Maryland*, and ſettled on the *South-ſide* of *Indian River*, within the Government of the Proprietor of *Penſilvania*, as the ſaid *Waples* apprehended; and that afterwards, the Sheriff of *Somerſet* County in *Maryland*, with ſeveral Men, came to the Houſe of the ſaid *Waples*, and took him by Force, and carried him back into *Somerſet* County aforeſaid. And further ſaith, that he has heard that *Fenicks*'s Iſland has been called the *Falſe Cape*, and by ſome other Names that he does not now remember.

John Prettyman aged 62. [*Lib.* B. *Fol.* 257. *Int.* 20. *Fol.* 258.] That he has ſeen ſeveral Parts of the Bay and River of *Delaware*, but is not well acquainted with them, and knows the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, and has known the Town now called *Lewes*, and the *Indian* River, *about* 43 *Years*. And ſaith, that when he this Deponent *firſt* knew *Lewes* Town aforeſaid, it was generally called *Whorekill*, and the County of *Suſſex* was *then* alſo generally called by the ſame Name of the *Whorekill*, and was under the Government of the *Proprietor of Penſilvania*. And that the ſaid Town now called *Lewes* was formerly in the County called *Whorekill*, and is now in *Suſſex* County aforeſaid, and this Deponent further ſaith, that he does not *know* how *far* the ſaid County of *Suſſex* extended *Southward* of the ſaid Town now called *Lewes* at the Time of his *firſt* Knowledge thereof, but believes it extended *about* 12 *Miles* to the *Southward of Indian River*; and the *Reaſon* he has for ſuch Belief is, that his Father about 43 *Years ago* removed from *Virginia*, and came into the *Inlett near Fenicks*'s *Iſland*, and loaded his Goods *upon the ſame Iſland*; and that he this Deponent reſided, *on the ſaid Iſland*, and in the *Neighbourhood* thereof, for a Month or ſix Weeks, and heard the *ancient* People who lived *there*, ſay that *they* lived under the Government of Mr. *Penn*, and that the *Dutch* had formerly *nailed* a *Braſs or Copper Plate*, on a *Tree or Poſt* in the *ſaid Iſland*, which was *then* looked upon as the *Bound between Penn and Baltimore*, and that the ſaid *Fenicks*'s Iſland was *then generally* called Cape *Hinlopen or Inlopen*. And further ſaith, that there were divers Chriſtian Families, who lived, between the *South Side* of *Indian* River, and the Southern Boundary of the ſame Country; particularly one *John Stokely*, who was a *Magiſtrate* for the ſame County, and was alſo an *Aſſembly Man* for the ſaid County, and ſat as a Repreſentative thereof, at the City of *Philadelphia*, and alſo another Perſon who was a *Conſtable* for the ſame County; and ſaith he *never* heard that the Proprietors of *Penſilvania*, or any Perſon pretending Authority under them, ever uſed any *Force* or Violence, to oblige the Inhabitants of the ſaid Town called *Lewes*, or the People reſiding on the *South* Side of *Indian River*, to ſubmit to *their* Government, or to own *them* for their Proprietors or Landlord; and that he has heard, there were Diſturbances made, on the South Side of the River, by Perſons who were ſuppoſed to act under the Authority of the Proprietor of *Maryland*, but, as he lived on the *North* Side of the ſame River, he can give no particular Account of them.

* *Woodman Stockley* aged 53. [*Lib.* B. *Fol.* 263. *Int.* 20. *Fol.* 264.] That he knows the Bay and River *Delaware*, and the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, and has known the Town now called *Lewes*, and *Indian River*, in this Interrogatory mentioned, *upwards of* 40 *Years*, and which Town when he *firſt* knew it was by the Inhabitants and People *in general* called *Whorekill*. And that the ſaid County of *Suſſex*, ſince he knew it, was always called by that Name, and that the ſaid Town of *Lewes* is in the ſame County. And ſaith, that the ſame County, when he *firſt* knew it, was under the Government of *William Penn Eſq*; and extended *about* 20 *Miles to the Southward of Lewes Town aforeſaid*, but how far to the Southward of *Indian River* the Deponent cannot tell. That he lived, with his Father, above 40 *Years ago*, who ſettled on the *South Side* of *Indian River*, under the Government of the *ſaid William Penn*; but knows of no Marks, that were *then* the Southern Boundaries of the ſame County. And this Deponent further ſaith, that there were *then half a dozen Families*, to the Knowledge of the Deponent, who lived on the *South Side of Indian River* aforeſaid, and under the Government of the ſaid *William Penn*; which he *well knows*, becauſe the People, reſiding there, attended the Court, for that County, at *Lewes Town aforeſaid*, ſome of them as *Jurymen*, and *one John Stokely*, *his Uncle*, who lived *there*, *was a Juſtice of the Peace* for the ſame County. And this Deponent ſaith he hath *never* heard that the Proprietors of *Penſilvania* ever uſed any *Force* or Compulſion, to oblige the Inhabitants of the Town called *Lewes* aforeſaid, or the People reſiding on the *South Side of Indian River* aforeſaid, to acknowledge *them* for their Proprietors or Landlords; but this Deponent hath heard that one of the Sheriffs in *Maryland* came up from thence, and by *Force* turned a Man out of Poſſeſſion of his Plantation, and delivered the ſame to another Perſon; and the Deponent further ſaith, that, when he was young, People uſed to call the Iſland, now called *Fenicks*'s *Iſland*, (which is upwards of 20 *Miles to the Southward of the Cape*, *at the Mouth* of *Delaware* Bay, and to the *Southward of Indian River aforeſaid*.) Cape *Henlopen*, and then called the Cape, on the *South Side* of the *Mouth* of the ſaid Bay, *Cape Inlopen*.

* *John Anderſon* [*Lib.* B. *Fol.* 269. *Int.* 20. *Fol.* 270.] That he knows the Bay and River of *Delaware*, and the Counties of *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, and has known the Town now called *Lewes*, and the *Indian River*, in this Interrogatory mentioned, upwards of 20 *Years*; and ſaith that *ever ſince* he has known the ſaid Town, it has been called *Lewes*, and the ſaid County, ſince his Knowledge thereof, has been *always* called *Suſſex*, in which County the ſaid Town ſtands; and which Town and County, ſince he has known them, have been always under the Government of the Proprietors of *Penſilvania*; and this Deponent further ſaith, about 6 or 7 Years ago, he the Deponent, converſing with one *Charles Bright*, *ſince deceaſed*, (at the ſaid *Bright*'s Houſe, and on his own Plantation, in *Kent* County on *Delaware*) (who was then reputed to be 108 *Years old*) concerning the ſaid three lower Counties falling under the Government of *Maryland*, the ſaid *Charles Bright then* told the Deponent that the Boundaries of *Penn*'s Land was at *Cape Hinlopen*, *on Fenicki's Iſland*, and that he the ſaid *Charles Bright* had lived on *Rumney Marſh*, near *Fenicki*'s *Iſland* aforeſaid, *ſome Years*, and had *frequently ſeen the ſaid Boundary*, *which was engraved with Braſs*, and that *he had often ſeen and knew the Line that run from the ſaid Boundary*, *which was Weſt*, and *that the ſaid* Charles Bright *then deſired this Deponent to take notice of what he had ſaid.*

Brickus

Brickus Townſend of *Maryland*, Planter, aged 33. [*Lib.* B. *Fol.* 246. *Int.* 20. *Fol.* 246.] That he knows the Bay and River of *Delaware*, and has been in the Counties of *Newcaſtle*, *Kent* and *Suſſex*, but is not well acquainted with them; That he has known the *Indian* River 10 *or* 12 *Years*, and firſt knew the Town called *Lewes* about two Years ago, which is in the ſaid County of *Suſſex*. That the ſaid County, ever ſince he knew it, has been under the Government of the Proprietors of *Penſilvania*; That the Deponent has *heard his Father ſay*, that old *Hugh Tingle* told him, there was *a Tree* on *Fenwicks's Iſland*, which had *eight Braſs Nails drove in it*, and was ſuppoſed to be *a Boundary of the Land* to take up the Country. That he knows a Place, *on Fenwicks's Iſland*, to the *Southward* of *Indian River*, which he has *commonly* heard called *Cape Hinlopen*, and to the reſt of this Interrogatory cannot depoſe.

James Sangſter aged 58. [*Lib.* E. *Fol.* 42. 10th additional *Int. Fol.* 42.] That the *firſt Chriſtian People* who, *he has heard*, *ſettled the ſaid Counties* of *Newcaſtle*, *Kent* and *Suſſex* were *Dutch*; That he *never* heard the ſaid County of *Suſſex* called by any *other* Name, That as he was travelling up, from *Virginia*, hither [to *Maryland*] with his Mother, *ſhe ſhewed him a marked Tree*, *near an Indian Town*, at the Head of a *Creek called Aſſawamon*, which empties itſelf into a *ſmall Bay* or Sound, a little to the *Northward* of a Place called *Fenick's Iſland*, and ſaid, *that was a Boundary between Maryland and Penſilvania*. That the ſaid County of *Suſſex* was, as he has heard, formerly under the Government of *New York*, and he *never* underſtood *any* Part of it was under the Government of *Maryland*, (except what lies between the *South Side* of *Indian* River, and the *North* Side of *Aſſawaman* Creek aforeſaid;) That the Lands, lying, *between* the ſaid Creek and River, were ſettled and poſſeſſed by *ſome* Families under the Proprietors of *Penſilvania*, until one *Peter Waples*, an Inhabitant of *Somerſet* County in *Maryland*, about 45 or 46 Years ago, fled from *thence* for Debt, and ſettled himſelf on a Place called *Piny Neck*, near the *South Side* of *Indian River* aforeſaid, ſuppoſing he was, *then*, out of the *Limits* of the ſaid County of *Somerſet*; That, *afterwards*, the Sheriff of the *ſame* County came up, with a Number of Men, took him from thence *by Force*, and carried him to the Priſon of *Somerſet County aforeſaid*; That *afterwards*, one *Whittington*, who was Surveyor of the *ſame* County, as he has heard, came up, *ſurveyed many of the Lands*, *between* the ſaid *Creek* and *River*, and *diſpoſſeſſed thoſe that were ſettled* on them under the Proprietors of *Penſilvania*, particularly one *John Stokely* who, *at that Time* was a Juſtice of the Peace for *Suſſex County* aforeſaid.

William Burton of *Maryland*, Planter, aged 62. [*Lib.* E. *Fol.* 32. *Int.* 2. *Fol.* 32. and 10th additional *Int. Fol.* 33.] Says that he has reſided in the County of *Suſſex* and in *Maryland* for 48 *Years paſt*, and that he has heard that the *firſt Chriſtian People* who ſettled the ſaid Counties of *Newcaſtle*, *Kent* and *Suſſex*, were *Swedes and Dutch*; and underſtood, from ſome Writings which he has ſeen, that the ſaid County of *Suſſex* was formerly called *Dale*; and *Delaware Bay* aforeſaid was called *Wilk*, by the Province of *New York*; That the ſaid County of *Suſſex extended Southward* to a Creek called *Aſſawaman*, *about* 9 *Miles to the Southward of Indian River*, and about 25 *Miles from Lewes Town*; That he has *heard* the ſaid County of *Suſſex*, *before* he came *hither*, was under the Government *of York*; but, *ſince*, it has been *under the Government of Penſilvania*; and to his Knowledge the ſame, or *any Part* thereof, (except what lies to the *Southward* of the Indian River) *never was* under the Government of *Maryland*; which Part to the *Southward* of that *River*, has been *under that Government* about 45 *Years*; That about 45 Years ago, he was informed, that one *Peter Waples*, who lived in *Somerſet* County, fled for Debt, from the Place of his Abode, to the *South Side* of *Indian* River, and ſettled within five Miles of the Place where the Deponent then lived, ſuppoſing he was, *then*, out of the *Limits* of *Somerſet* County; That the Sheriff of that County, with about half a dozen Men, came and took him, from thence, *by Force*, and carried him *into Somerſet County*; That ſoon after this, one Colonel *Whittington*, being Sheriff of *Somerſet* County aforeſaid, came to one *John Petijolius*, who lived on the *South Bank* of *Indian River*, and demanded *Taxes* of him, which he refuſing to pay, the ſaid *Whittington diſtrained* ſome of his Cattle for them, which *Things*, and *ſome others* of the like Nature, ſo *frightned* the People to the *Southward* of *Indian* River, (which were *about* 8 *Families*) that *they were obliged* to ſubmit to the Government of *Maryland*, and that *moſt of the Lands* which were held by them, under Grants from the Proprietors of *Penſilvania*, were, *after*, taken up under the Government of *Maryland*, and particularly 900 Acres by the ſaid *Whittington*; and has alſo *heard* that *Part* of thoſe ſaid Lands had, *before then*, been *taken up* under the ſaid Government of *Maryland*; whereupon *thoſe* People, and the Inhabitants of the ſaid 3 lower Counties, refuſed to *pay any Quit Rents* to the Proprietors of *Penſilvania*, as this Deponent has been *informed*. That one *John Stokely*, who was Maſter of one of the 8 Families aforeſaid, and who had acted as a *Magiſtrate*, in *Suſſex* County aforeſaid, after the Submiſſion as aforeſaid to the Government of *Maryland*, accepted of the Commiſſion of a *Magiſtrate* under the *ſaid Government*, and acted thereby in the ſaid County of *Somerſet*.

William Burton of *Maryland* aged 62. [*Lib.* E. *Fol.* 32. 11th additional *Int. Fol.* 38.] Who has before depoſed that he has reſided in *Suſſex* County and in *Maryland for* 48 *Years paſt*, ſays, That he neither *knows* nor ever *heard*, that the Proprietors of *Maryland*, or *any* of them, *were ever* in the Poſſeſſion of the ſaid Lands now called *Newcaſtle*, *Kent* and *Suſſex* on *Delaware*, or *any Part* of them, (excepting in the Lands aforeſaid to the *Southward* of *Indian River* aforeſaid, and a *Fort* about *Chriſtiana*, in *Newcaſtle* County aforeſaid) nor does he *know*, has *heard*, or *believes*, that they or *any* of them, or *any* Perſon under their Authority, *ever* exerciſed *any* Juriſdiction, or *held any Courts*, in the ſaid County of *Suſſex*, nor has he *ever* ſeen *any* Record, or *publick* Minument, or Writing, purporting *any ſuch Juriſdiction*, or *Courts*, held by them, or their Authority, within *any* of the ſaid Counties.

James Sangſter aged 58. [*Lib.* E. *Fol.* 42. 13th additional *Int. Fol.* 46.] That he *formerly following Whaleing*, and thereby became acquainted with the Sea Coaſt, from the *Entrance* of *Delaware* Bay down to the *Southward* of *Fenicks's* Iſland, but has never been *very far* in the Sea *from* it; That he obſerved in foggy Weather, at Sea the ſaid Iſland *had the Appearance* of a Cape, which, as he apprehends, is occaſioned by *Aſſawaman Sound*, which joins to it, but as it is approached nearer, it alters its Form, and does not appear to be *a Cape*, That he has heard that *Fenicks's* Iſland aforeſaid, at the *firſt* Settlement on *Delaware* Bay, was called *Cape Henlopen*; and that it has been called by *one* or *other* of *thoſe* Names ever ſince; which Iſland he apprehends, lies 30 *Miles to the Southward* of the *Southern* Cape at the *Mouth* of *Delaware* Bay; which *laſt* mentioned Cape he has heard one *Alexander Molleſton*, an *ancient Dutchman*, who lived *near* the ſame, and one *Cornelius Wilbank*, about 48 *Years ago*, ſay, was *called* by the Name of *Cornelius*, and *by others*, *about the ſame Time*, it was called *Cape Inlope*; *That ever ſince*, has been called *ſometimes* by *one* of *thoſe* Names, and ſometimes, by the *other*, but by the *greater* Number it has been called *Cape Inlope*.

William Burton of *Maryland* aged near 62. [*Lib.* E. *Fol.* 32. 13th additional *Int. Fol.* 40.] That he has *never been at Sea*, but has been in a *high Wood* of *about* 100 *Acres* on *Fenicks's Iſland*, and *on the Sea Coaſt*, which he has been informed by *Sailors*, has the *Appearance of a Cape from the Sea*; but as it is approached, that Appearance vaniſhes, and there is no Cape at all; That it is by ſome People called the *Falſe Cape*, and by others *Fenicks's Iſland*; he *never* heard it called by any *other* Name until he ſaw the printed Plan or Map, mentioned in the late Agreement, between the Proprietors of *Penſilvania* and *Maryland*, by which it is called *Cape Hinlopen*; That *he* never heard the Place called Cape *Cornelius* in that Map, called by *that* Name until the Proprietor of *Penſilvania* arrived in that Province, *about* 40 *Years ago*. And has heard his Father ſay, that the ſame Proprietor then called it by *that* Name, but *before that Time*, as *he ever* underſtood, it was called *Cape Henlopen*.

Depoſitions for the Defendant, With ſome Obſervations thereon.

I. And firſt, as to ſuch of our Witneſſes as he croſs examined in order to *diſqualify* themſelves, as *intereſted* Perſons.

Samuel Preſton, our Commiſſioner, the Defendant examined to a vaſt Number of Interrogatories on his own part, as to the Matters in queſtion; ſo that he is an unqueſtionable good Witneſs on our part.

James Logan, our Commiſſioner, the Defendant croſs examined *only* as to his Intereſt. [*Lib.* H. *Fol.* 99. *Int.* 1. *Fol.* 100.] But he anſwers, preciſely in the Words of their Interrogatory, That he is not immediately, or mediately, concerned in the Event of this Suit; nor does he *hold*, *poſſeſs* or *claim any* Land, in diſpute between the Plaintiffs and Defendant in this Cauſe, either in the three Lower Counties called *Newcaſtle*, *Kent* and *Suſſex*, or within the Province of *Penſilvania* or *Maryland*.

The Defendant thought this Gentleman (who had once, heretofore, gone thro' ſo many Offices) muſt needs have ſome Intereſt in the Lands in queſtion, therefore he examined one or two Witneſſes as to Mr. *Logan*, *viz.*

Samuel Preſton. [*Lib.* H. *Fol.* 104. *Int.* 22. *Fol.* 116.] That from 1701 to 1732. *James Logan*, and ſome others whom he does not remember, were *Principal Managers and Chief Agents* in *Penſilvania* and the three lower Counties, for Mr. *Penn* and his Family; and had the Power of granting and ſettling Lands in thoſe Places; and that *James Logan* was the *Principal Actor* in the ſaid Affairs.

This is the very thing Mr. *Logan* himſelf declares, and it is *that* which gave him ſo large a Knowledge, to depoſe ſo fully to the ſeveral Affairs he ſpeaks to; but that does not *diſqualify* him from being an Evidence now, even if he had held all thoſe Offices *ſtill*; whereas, he ſwears he laid them all down, when he came to be Preſident of the Council there; from which laſt Office he was relieved, by the preſent Governor.

John Taylor, the Defendant's Witneſs [*Lib.* H. *Fol.* 95. *Int.* 3. additional *Fol.* 98.] Has heard and believes that *Andrew Hamilton* and *James Steel*, do hold Lands in *Kent* County, under *the Plaintiffs*; but ſays he *never heard* that *James Logan* holds, or claims, or has lately held or claimed, any Lands, either in the Part in diſpute in this Cauſe, or in any of the three Lower Counties.

So that Mr. *Logan*, who knows a vaſt deal, by having gone thro' all thoſe publick Stations, and who ſwears that he has now laid down all Offices, and has no ſort of Intereſt, is a clear unexceptionable Witneſs for Us.

Andrew Hamilton, another of our Commiſſioners, we have examined, *only as one of the Commiſſioners* for carrying the Articles into Execution, as to what paſt at the Execution of the Commiſſion; and to no kind of thing whatever elſe. Yet *him* the Defendant croſs examined, as to his Intereſt *only*, *viz.* [*Lib.* H. *Fol.* 128. *Int.* 1. *Fol.* 129.] And he ſays that he holds Lands in *Newcaſtle* and *Kent* Counties, two of the three Lower Counties, which Counties he underſtands to be in diſpute in this Cauſe ——That the Lands in *Kent* County, which he holds, were *originally granted* under the Duke of *York*, to ſome of the Soldiers who ſerved at the *taking* of *New York* and *Delaware*, in Conſideration of *ſuch Service*, as appears by the ſaid original Grants, and have been ſince *confirmed* by Mr. *Penn* to their Deſcendants ——That the Lands which he holds in *Newcaſtle* County were claimed by one *Auguſtine Harman*, under a Right from one of the Anceſtors of the *Defendant*, and by one *Green*, under a Right from the *Plaintiffs* Father —— *Both which Rights* were veſted in one *Mathias Vanbeeber*, who ſold the ſame to this Deponent.——And this Deponent further ſaith, that he *firmly believes* that he ſhall *neither* be a *Gainer*, or *Loſer*, by the Event of this Cauſe.

We hope this does not diſqualify Mr. *Hamilton*, who is only a Witneſs *as a Commiſſioner*, and, *as ſuch*, is a very *material* one.

James Steel is our laſt examined Commiſſioner, and is alſo examined by Us as to our *receiving Quit Rents*, and to many other Points. The Defendant croſs examined him as to his Intereſt, [*Lib.* H. *Fol.* 93. *Int.* 1. *Fol.* 94.] And he ſays he does not *know* that he is *any way* intereſted in the Event of the Cauſe, *unleſs* his holding Lands in two of the three Lower Counties ſhall be interpreted ſo. And further he affirms and ſays, that he holds and poſſeſſes ſeveral Parcels of Land, under *the Plaintiffs*, in *Newcaſtle* and *Kent*, *by ancient Grants*.

So much as to our *four* living Commiſſioners.

2. *Secondly*, As to ſome of *our other* Witneſſes, whom the Defendant has *croſs examined* as to *their Intereſt*.

John Anderſon, Farmer, [*Lib.* H. *Fol.* 51. *Int.* 1. *Fol.* 52.] Does not *apprehend* himſelf to be *any way* concern'd in the Event of this Cauſe; Tho' he *holds* ſome Lands in *Kent* County *under the Plaintiffs*, yet conceives that, if the ſaid Counties ſhould fall to the Lord *Baltimore*, he ſhould *ſtill* keep his Poſſeſſion.

John Ball, Blackſmith, [*Lib.* H. *Fol.* 18. *Int.* 1. *Fol.* 18.] Does not know that he is intereſted in the Event of this Cauſe, but that he *is in Poſſeſſion* of a Tract of Land in *Newcaſtle* County, the Right of which he has *conveyed* by Deed to his Son; but that he has his ſaid Son's Promiſe, that he ſhall enjoy it during his Life: That his ſaid Land is held under *the Plaintiffs*. He further ſays, that he *claims* a Tract of Land, *under the Defendant*, which he believes, lies within the Limit in diſpute between the Parties.

So that, we hope, this Witneſs is a *good* one for us, ſince he is, *at leaſt*, *equally* concerned, or *more*, under the Defendant, than under us.

John Garretſon, Farmer, [*Lib.* H. *Fol.* 17. *Int.* 1. *Fol.* 17.] Is not, to his Knowledge, any way intereſted in the Event of this Cauſe, tho' he *holds*, *poſſeſſes* and *claims* a Tract of Land whereon he lives, *under the Plaintiffs*, ſcituate in *Newcaſtle* County, within 3 or 4 Miles of *Newcaſtle* Town.

James Hendricks, Carpenter, [*Lib.* H. *Fol.* 125. *Int.* 1. *Fol.* 125.] Believes he is no way intereſted or concerned in the Event of this Cauſe. Neither claims or poſſeſſes any Lands in diſpute between the two Proprietors, or in any of the three Lower Counties——So the Defendant himſelf croſs examined him to the *Merits*.

Samuel Hollingſworth, Farmer, [*Lib.* H. *Fol.* 29. *Int.* 1. *Fol.* 30.] Does not apprehend himſelf to be any way intereſted in the Event of this Suit, nor holds, nor claims, any Lands that he believes to be in diſpute in the Cauſe——So the Defendant went on and croſs examined him to a great number of Interrogatories to the *Merits*.

Thomas James, Pilot, [*Lib.* H. *Fol.* 12. *Int.* 1. *Fol.* 12.] Is not any way concerned in the Event of the Cauſe, nor holds any Lands in diſpute between the Parties——So the Defendant went on and croſs examined him to the *Merits*.

Mark Manlove, Farmer, [*Lib.* H. *Fol.* 24. *Int.* 1. *Fol.* 25.] Does not conceive that he ſhall be any way intereſted or concerned in the Event of the Cauſe; but *he holds and poſſeſſes* Part of ſeveral Tracts of Land in *Kent* County. [He does not ſay under *whom*] The *Reaſon* why he conceives himſelf to be diſintereſted in the Event of the Cauſe is, becauſe he expects to be quieted in his *Poſſeſſion*, whoever gains it.

Elizabeth Morris, Widow, [*Lib.* H. *Fol.* 26. *Int.* 1. *Fol.* 26.] Is no way intereſted in the Event; neither holds nor claims any Lands in diſpute between the Parties to this Cauſe——So the Defendant croſs examined her to the *Merits*.

Elizabeth Murphy, Widow, [*Lib.* H. *Fol.* 126. *Int.* 1. *Fol.* 127.] Is not any way concerned in the Event of the Cauſe, nor holds any Lands within the Limits in diſpute between the Parties—— So the Defendant croſs examined her to *the Merits*.

John

John Musgrave, Farmer, [*Lib.* H. *fol.* 34. *Int.* 1. *fol.* 35.] Does not think himſelf any way intereſted, or concern'd in the Event of the Cauſe. And holds or claims no Lands, that he apprehends lie within the Limits in diſpute between the Parties.——So the Defendant croſs-examined him upon a great Number of Interrogatories to the *Merits*.

Thomas Noxon, [*Lib.* H. *fol.* 92. *Int.* 1. *fol.* 92.] Believes he is not any way concerned in the Event, but ſays, he is poſſeſt of ſome Lands in *Newcaſtle* County, that he claims under Grants from the Government of *New-York*, dated about the Year 1671, and holds or claims *no Lands* by *any* Grant or Right from the Proprietors of *Penſilvania*, or any of their Anceſtors; And, *therefore* apprehends his Title *cannot* be affected by the Event of this Cauſe.

William Peterſon, of *New Jerſey*, Farmer, [*Lib.* H. *fol.* 7. *Int.* 1. *fol.* 8.] Is neither directly or indirectly concerned in the Event of the Cauſe, and neither holds or claims any Lands in diſpute in the ſaid Cauſe.——So the Defendant went on, and croſs-examined him to the *Merits*.

John Prettyman, Farmer, [*Lib.* H. *fol.* 49. *Int.* 1. *fol.* 50.] Does not apprehend himſelf to be any way intereſted in the Event, but holds a Tract of Land on the *South* Side of *Indian River*, *under the Defendant*, and a Tract of Land on the *North* Side of the ſaid River in *Suſſex* County, *under the Plaintiffs*.——So that this *Farmer*, we think, is an equal *indifferent* Witneſs.

John Rambo, of *New Jerſey*, *Farmer*, [*Lib.* H. *fol.* 19. *Int.* 1. *fol.* 20.] Is not any way intereſted in the Event of this Cauſe, nor holds any Lands within the Limits in diſpute between the Parties.——So the Defendant went on, and croſs-examined him to many Points on the *Merits*.

John Hans Steelman, Indian Trader, [*Lib.* H. *fol.* 127. *Int.* 1. *fol.* 128.] Is no way intereſted or concerned in the Event of the Cauſe, and does not hold or poſſeſs any Lands within the Limits in diſpute between the Parties, or in the three lower Counties.

* *Wooman Stockley*, Farmer, [*Lib.* H. *fol.* 50. *Int.* 1. *fol.* 51.] Does not expect to be either Gainer or Loſer by the Event of the Cauſe, but *holds* ſome Lands, in *Suſſex* County, *under the Plaintiffs*.

* *William Till*, Merchant, [*Lib.* H. *fol.* 124. *Int.* 1. *fol.* 124.] Does not apprehend he is any way intereſted in the Event or Iſſue of the Cauſe, but that he holds Lands in *Suſſex* County, *under the Plaintiffs*.

* *William Waples*, Farmer, [*Lib.* H. *fol.* 49. *Int.* 1. *fol.* 49.] Does not know whether he is intereſted, or not, in the Event of the Cauſe, but *holds* Lands under the *Plaintiffs* in *Suſſex* County.

Joſeph Wood, Carpenter, [*Lib.* H. *fol.* 4. *Int.* 1. *fol.* 4.] Is no way intereſted in the Event of this Suit; nor does he poſſeſs or claim any Lands in diſpute in the Cauſe.——So that the Defendant went on and croſs-examined him to ſeveral Points relating to the *Merits*.

So that

* *James Steel* - -
* *John Anderſon* -
* *John Garretſon*
* *Wooman Stockley*
* *William Till* - -
* *William Waples*

Have, as often as they are reſpectively named in the State of our Depoſitions, an Aſteriſm, or Mark* ſet before their Names, as liable to the fore-mentioned Doubt *only*. And they are *ſuch* Witneſſes, as that the Loſs of *any* of them will not be fatal, except as to Mr. *Steel*, who proves the *receiving Quit-Rents* by us, and even as to *that*, and indeed as to *every other* Point, the Defendant's own Witneſſes have moſt abundantly ſupplied our Proof, and confirmed it, in the *ſtrongeſt* and *fulleſt* manner.

Note, As the Defendant would have our Agreement to be (at the beſt) a meer *voluntary* Agreement, without *any Conſideration* whatever moving from us, and inſiſts, that his Charter comprizes every thing which we granted him by the Articles, we ſhall be obliged to *debate* the *Extent* of the Charter for *Maryland*; for altho' *Penſilvania* is granted in expreſs Terms from *the Beginning* of the 40th Degree, yet, if the *Maryland* Charter, which was long *prior*, is to be expounded not by the *Landmarks* (which it expreſly bears in it) but by *Degrees*, and thoſe too, ſuch Degrees as are *now* diſcovered and known, and that Lord *Baltimore* is intitled alſo to the very *Extent* of the 40th Degree, *compleat*, as *now* known and found out, and that *all this* is quite *clear*, and beyond Poſſibility of a Doubt, why then, indeed, we have granted him *no Territory* at all, and the Agreement may be ſaid to be without any Conſideration, *ſave this*, That it was to *end a continued expenſive Conteſt*, which had ſubſiſted for full *fifty Years* together, almoſt to the ruin of the Parties; and which had hindred alſo the publick Good, as it ſtopt the Settling ſo fine a Colony; And which Conſiderations *alone*, might be *good*, to intitle us to Relief, and the Aſſiſtance of a Court of Equity, to carry the Agreement into Execution.

But, on the other hand, if it ſhall come out, as clear as the Sun, that we have, in this Agreement, granted to him an exceeding *large* Tract and Territory, Part of our own Province of *Penſilvania*, above all the *Landmarks* of his Charter, above every Part of the *Peninſula*, above the *Iſthmus* thereof, above what was at the time of his Charter known to be the 40th *Degree*, and above every one of his own ſucceſſive Claims and Encroachments, from time to time; yea, *many Miles* above the *higheſt* of all his moſt extravagant Demands, why then, there is, *every way*, ſuch a good, real, and valuable Conſideration given, on our Parts, that this can, in no legal Propriety, be called a *voluntary* Agreement, or an Agreement *without Conſideration*.

3. The Defendant croſs-examined *two* of our Witneſſes, to know if *Obſervations* had not been taken at *Philadelphia*, and where the 40th Degree fell?

John Muſgrave, [*Lib.* H. *fol.* 34. *Int.* 8. *fol.* 37.] Has *heard* that there have been Obſervations *formerly* made at *Philadelphia*, and at the Head of *Elk* River; but knows nothing of the Particulars thereof.

Benjamin Eaſtburn, [*Lib* H. *fol.* 117. *Int.* 8. *fol.* 118.] Has been *informed*, that ſome Perſons, *ſeveral Years* ago, made *Obſervations* in *Philadelphia*, in order to diſcover *its Latitude*. And this Affirmant has, likewiſe, made *ſome* Obſervations, for the ſame purpoſe. And, according to the beſt Judgment he can form *from his Obſervations*, he believes, that the *Market-Street* in *Philadelphia*, does not lie *ſo far North* as the Latitude of 40 Degrees compleat, but near to the Northermoſt Part of the ſaid Degree. *But*, as *Aſtronomers differ*, among themſelves, concerning the *Places of the Heavenly Bodies*, their *Declinations*, and the *Latitude of the Stars*, and proper *Allowances for Refractions*, it is *almoſt impoſſible* to determine the *exact Latitude* of *any* Place, with the *beſt* Inſtruments; And as the Inſtruments, chiefly made uſe of by the Affirmant, on this occaſion, were made *by himſelf*, and *very imperfect*, he cannot take upon himſelf to ſpeak *certainly* of the Latitude of any Part of the Street aforeſaid: And ſays, that he has heard, and *believes*, that the Surveyors, appointed by Commiſſioners, in purſuance of *an Order of the King in Council*, about the Year 1733, to lay out the *Northern Neck* in *Virginia*, did differ, about the Latitude of *one* Place in the ſaid Neck, *fourteen*, about *another*, *fifteen*, and a *third*, *ſeventeen*, Geometrical Minutes [which is very near 20 Miles,] And that his Information was from *John Warner*, *one of the Perſons* employed to make the ſaid Obſervations.

What pretty Work *this* would make, in explaining the King's Grants by *Degrees* (eſpecially when there *are* certain *Landmarks* in a Charter?) And what a *hopeful* Account has the Defendant given, by his *own Examination* of this Witneſs, of the abſolute Incertainty of Degrees, even now?

4. Next, My Lord examined ſome Perſons, *Dependants* upon him, to give *their* Conſtruction and *Opinion*, as to the *Extent* of the Charter for *Maryland*.

Colonel *Thomas Colvill*, of *Maryland*, aged 50. [*Lib.* G. *fol.* 120. *Int.* 3. *add. fol.* 122.] Has ſeen the *River Delaware* at *Newcaſtle* Town, and *believes* it's, there, about *two* Miles wide. And is, at the City of *Philadelphia*, he believes, about a Mile wide. That the *Tide-water* flows and ebbs, both at *Newcaſtle* and *Philadelphia*; and, as he *believes*, twenty Miles higher.——Knows not whether the Water at *Philadelphia* be *ſalt*, *brackiſh*, or *freſh*.

It may be ſo, as this *Maryland* Witneſs of my Lord's ſays; but, does it *approach* to the other Water, to make an *Iſthmus*? No. We prove, that, from *our* Iſthmus, the Waters greatly *diverge*, both upwards and downwards.

Thomas Hynſon Wright, of *Maryland* Eſq; a Surveyor, and the Defendant's Witneſs only, aged 52. [*Lib.* G. *fol.* 251. *Int.* 7. *fol.* 255.] That he hath *ſome little Knowledge* in the Art of *Surveying*, and that he hath ſtudied the ſame for *about* 30 *Years laſt paſt*; and that the Reaſon of his ſtudying the Art aforeſaid, was, to qualify himſelf for the Office of *Surveyor*, and accordingly, in *September* 1720, was appointed *Deputy-Surveyor of Queen* Anne's *County* in *Maryland*, which Office he held, until he laid down the ſame *of Choice*. And ſaith, that he hath looked upon the Exhibit, *markt* N° (1.) (which is afterwards *ſaid to be* a Copy of the Bounds in my Lord *Baltimore*'s Charter) and read and conſidered the ſame; And that *he* is of opinion, *all the Land*, lying on the *North* of a Line, drawn *Eaſt* from the Promontory or Point called *Watkins Point*, unto the main Ocean, and *with the main Ocean and* Delaware *Bay** to the *Extent* of the 40th Degree of Northerly Latitude, and *from thence*, *by the Degree aforeſaid*, to the Fountain of *Potomack*, mentioned in the Exhibit aforeſaid, and, from thence, by the *Weſt and South Side* thereof to *Cheſopeake* Bay, and, *from thence*, by a ſtrait Line, to the *Promontory or Point*, called *Watkins Point* as aforeſaid, are included *within the Limits* of the Charter in the Exhibit aforeſaid, mentioned. Saith that, *having* reſided in *Maryland*, from his *Infancy*, and travelled thro' the *greateſt Part* thereof, is *pretty well* acquainted with *moſt* Parts of the *Eaſtern* Shore; and that *he* is of opinion, the three lower Counties aforeſaid *are within the Boundaries or Buttals* in the Exhibit aforeſaid mentioned, *becauſe*, the *Expreſſions in the ſaid Exhibit* are *clear* and plain, to *any* Capacity, *excepting that of the* 40*th Degree*; and *that*, would be *improperly* applied, to *any other* Place than the *Extent* of the Degree; for that, *until it comes to the Extent of the* 40*th Degree*, it would be *only* 39 Degrees, 59 Minutes, and ſo many Seconds.

* *He does not pretend to go up* Delaware River; *for he can find no* ſuch *Word in the Charter*; *and* yet, *goes to the* Extent *of the* 40*th* Degree.

Note, This *Surveyor* is a very *bad* Expounder of the King's Charters; and he is, either a great *Quibbler* upon Oath, or elſe, a moſt *wretched* Mathematician; for, with his Leave, 39 Deg. 59 Min. is *under* the 40th Degree; and ſo is 39 Degrees 1 Minute; and every ſingle Hair's Breadth, from 39 compleat to 40 compleat: altho' none of them are to the *Extent* of the 40th Degree compleat. I could wiſh he were here, to anſwer one plain Queſtion, *viz.* Under *what* Degree is any Place, that lies 30 Minutes North from the Equator? Is it not *under* the *firſt* Degree, altho' it is not to the *Extremity* of that firſt Degree compleat? This I would illuſtrate further, by aſking him, Under *what* Degree 90 Min., or 110 Min., North from the Equator, is? Would he ſay, they are under the *firſt* Degree? If ſo, he makes more than 60 Min. to a Degree; and it's evident, to common Senſe, that they *are* under the *ſecond* Degree, for they are *beyond* the *Extent* of the *firſt* Degree, and, therefore, cannot *be in*, or *under*, that.

William Rumſey, of *Maryland*, a Surveyor, the Defendant's Witneſs, aged 42. [*Lib.* G. *fol.* 129. *Int.* 7. *fol.* 130.] That, in or about 1716, he *began* to ſtudy Geometry, Trigonometry, Plain and Mercator Sailing, and in 1724 he was made *Deputy-Surveyor* of *Cecil* County aforeſaid, and has acted in that Station *ever ſince*, and ſaith he hath ſtudied *ſome other* Branches of the Mathematicks, as Spherical Trigonometry and Dialling; but, *as he had not a regular Education*, he looks upon himſelf to have, *in relation to them*, but a *ſuperficial Knowledge*; and further ſaith, that the *Exhibit*, N° (1.) he has read and *conſidered*; and that *he* is of *opinion*, that all *the Land* lying *under* the 40th Degree of North Latitude between the Bay or *River** *Delaware*, and the Meridian of the firſt Fountain of *Potomack* River, is, *within the Limits* of the Charter; *unleſs the* 40*th Degree* of North Latitude ſhould interſect the aforeſaid River of *Potomack*, *before it reaches* that Meridian; And all the *other* Lands, lying under the 40th Degree of North Latitude are *excluded thereout*. Saith, that he is well acquainted with *divers* Parts of *Maryland*, being born, and having lived moſt of his Life-time, therein. Saith, that he has been acquainted with the three lower Counties, *about* 17 *Years*, where his Buſineſs has *frequently called him*; Saith, that *he apprehends*, that *all* the three lower Counties aforeſaid, are *within the Limits* of the Charter aforeſaid. That the *Reaſon* of ſuch his Opinion is, *becauſe* the ſaid three lower Counties *are a Part of the Peninſula* in the Charter mentioned, lying to the *Southward of the* 40*th Degree of North Latitude*.

* *Where has he got the Word* River? *There is no* ſuch *in the Charter*.

Note, This Man *contradicts* the Fact *admitted* in *fol.* 13. of my Lord's Anſwer; where my Lord expreſly admits that the three Lower Counties lie in the Peninſula, and alſo, *above the Peninſula*, *within the Main Continent*; for this Witneſs ſays they are *all a Part of the Peninſula*. So that we are in a fine Caſe; Firſt, my Lord *admits* a Fact, to draw us into a Reliance and Dependance upon it, and then he examines this, and many other Witneſſes, to *diſprove* his own Anſwer.

And another *particular* Error of *this* Witneſs is, that he is looking to the 40th Degree as *now* known (108 Years after the Time of my Lord's Charter) whereas, if he *were* to go according to the Degree *at all*, it ſhould be the Degree as *then* known.

But the *greateſt* Opinions have, *unanimouſly*, been, that my Lord's Charter is to be expounded according to the *Landmarks*, and not *any* imaginary Points in the Heavens, the Uncertainty whereof the Defendant *himſelf* has given ſuch an Account of.

Hugh Jones of *Maryland*, Clerk, the Defendant's Witneſs, aged 49. [*Lib.* G. *fol.* 4. *Int.* 7. *fol.* 5.] That he has been *converſant* in the *Mathematicks*, and *eſteems himſelf*, in *ſome meaſure*, ſkilled in them; That he learnt Arithmetick at School, ſtudied Geometry, Geography and Aſtronomy in the Univerſity of *Oxford*; where, having taken the Degrees of B. A. and M. A. he was recommended, by the then Principal of the College, *Doctor Win*, Biſhop of *St. Aſaph*, to Doctor *Robinſon*, then Biſhop of *London*, who adviſed the Deponent to *perfect* himſelf, as well as Time would allow, in the Mathematicks, for that his Lordſhip intended to ſend him over to the Colledge of *William* and *Mary* in *Virginia*, *as Profeſſor of the Mathematicks*. That, thereupon, the Deponent applied himſelf to the Study of *Algebra* (which he had *not* applied himſelf to before) under the Inſtruction of Mr. *Hudſon* of *Chriſt-Church*, and was admitted Profeſſor of Mathematicks in the Colledge of *William* and *Mary* aforeſaid, in the Year 1717, and continued *ſtudying and teaching* the Mathematicks *there* till 1721, and has made it his *occaſional* Study ever ſince. Says he has lookt upon the Exhibit N° 1, and has *read* and *conſidered the ſame*; and, according to the *beſt* of his *Underſtanding* and *Judgment*, *All the Lands*, between the *Tide-Water** [1] of *Delaware*, and the *Meridian* of the firſt or *Weſtermoſt** [2] Fountain of *Potomack*, lying *under* the 40th Degree of Northerly Latitude from the Equinoctial, that is, at *the Diſtance of* 2400 *Minutes* from the Terreſtrial Equator, * [3] *are within* the *Limits and Bounds* mentioned in the Exhibit aforeſaid. That he has been, often, in 10 of the 12 Counties of *Maryland*, and knows ſeveral Places in each of them, and has known the ſame about 20 Years; 14 of which he has reſided in *Maryland*. That he has known the County of *Newcaſtle* about 8 Years, but is *unacquainted with Kent upon Delaware and Suſſex*. That, for upwards of 8 Years laſt paſt, he has been *Miniſter* of a Pariſh, *contiguous to Newcaſtle* County, and has had *frequent* Occaſions to go to *Newcaſtle*. Further declares, that, to the *beſt* of his *Judgment* and *Underſtanding*, all and *every Parcel* of the three Lower Counties are *contained and included within the Limits and Bounds ſpecified in the Exhibit*; and ſaith that the *Reaſons* for his Judgment concerning the *Extent* of the Charter to the ſaid Diſtance from the Equator, are (1ſt) Becauſe, *to him*, it *ſeems located* where *New-England ends*, * [4], and *Smith*, in his General Hiſtory, publiſhed *before*, and *Ogilby*, in his *America*, printed after the ſaid Charter, *both agree*, that no Part of *New-England could* come more to the *Southward than* 2400 *Minutes North of the Equator* * [5]; 2dly, The different Caſes of the Words *Sinus* and *Æſtuarium*; the firſt, uſed in reſpect of *Cheſopeak*, and the latter, in relation to *Delaware*; for, had the Northern Limits been *intended* to have ſtopped *ſhort* of the 40th *Degree compleat*, it might have been in a Part of *Delaware* as much as *Sinus* as *Cheſopeak* is; And the *Reaſon* why he conceives all the three Lower Counties to be *within the Limit* aforeſaid, is, becauſe, from *Obſervations* taken, and Lines run, *by himſelf* and

and others, and Knowledge of the Situation of the Places, *he* is fully *convinced*, that the *moſt* Northerly Part of *Newcaſtle County* (the moſt Northerly of the three) (ſuppoſing *Newcaſtle* County not to extend more Northerly than 12 Miles North of *Newcaſtle* Town) is, *at leaſt*, *ſeven Minutes* to the Southward of the ſaid 40th Degree * 6.

Note, This is the *very Perſon*, who with his *ſelf-eſteemed*, but *falſe Reaſoning*, has infected Lord *Baltimore*, and made him fly off from his Agreement; and, therefore, we may expect to hear *his* Arguments enforced againſt us. But he has made ſeveral great *Blunders* in his Opinion.

1. He takes all the Lands between the Tide-Water of *Delaware* and the Fountain of *Potomack*; but why the *Tide-Water*? He afterwards tells us, that the Word *Sinus* is uſed as to *Cheſopeak*, and another *different* Word, *Æſtuarium*, as to *Delaware*. He does not, indeed, give us *his* Conſtruction of *Sinus*, but that's wholly immaterial, as no Part of *Cheſopeak* Water was mentioned for the *Northern* Boundaries. And the only material thing is this *Æſtuarium* of *Delaware*, which, I am ſure, the Crown did not *intend* ſhould be the *Tide-Water* of *Delaware*, becauſe, had he lookt a little further, he would have found that the Crown itſelf has, in the *very Body of the Charter*, called it *Æſtuarium de Delaware vocat' Delaware Bay*. Now we have proved, by a *Number* of Witneſſes, that the *Head* of *Delaware Bay* ends at *Bomteys-hook*, a great way below *Newcaſtle*; whereas, they have got a ſingle Witneſs, who believes the *Tide-Water* flows 20 Miles above the City of *Philadelphia*, (which is really above 60 Miles more North than *Bomteys-hook*, and which 60 Miles, *at a Touch*, this Witneſs gets, only by *ſtriking out* of the Charter the *Engliſh* Word *Bay*, and *inſerting* in it a Word, which he likes better, *Tide-Water*.

2. This Witneſs makes *another* very kind Conſtruction for his Patron, of the King's Charter; for he ſays, all the Lands from the Tide-Water of *Delaware*, to the Meridian of the firſt or weſtermoſt Fountain of *Potomack*; which is ſaying, to the *firſt*, or to the furtheſt and *laſt* Fountain. For the Charter begins with granting the moſt *Eaſtern* Lands firſt, (the Part of the Peninſula) and then proceeds, and grants on to the *Weſtward*, to the Meridian of the *firſt* Fountain. But this Witneſs is right, for his Patron, he knows it will *grant more*, if it goes on and grants quite to the *weſtermoſt* Fountain, and therefore he has *again* inſerted Words into the Charter of the firſt (or *weſtermoſt*) Fountain. I know my Lord's Weſtern Bounds do not affect *us*, but this abundantly ſerves to ſhew the *Willingneſs* of the Witneſs, and his *Inaccuracy* too, even when on his *Oath*; ſo that no regard ought to be had to his Opinion, who, if he can't *find*, will yet *make* and add Words, to favour his Intentions, and his Patron.

3. Having a very *bad Argument* to maintain, he affects to uſe very *obſcure* and *improper Terms*, in order to *confuſe* the Matter, even ſo as to talk very near to *Nonſenſe*. He ſays all the Lands *lying under* the 40th Degree, that is, *at the Diſtance* of 2400 Minutes, are within the Limits and Bounds. If he means that it is *not the Degree*, nor *under* the Degree (as ſome of his fellow Witneſſes contend) until that Degree is *compleat*, (and it certainly is compleat at the 2400 Minutes from the Equator) *then*, all theſe Lands, lying under the 40th Degree compleat, are *no Lands at all*; for the imaginary Line of 40 is an *indiviſible* Line, without any Space or Width in it. What can he mean then, by the Lands lying *under* the 40th Degree, *and yet*, at the Diſtance of 2400, at which Diſtance they are *not under*, *nor can poſſibly be under*, the 40th Degree? I know what he means, and will tell you, and it's plain that he choſe and *affected* to ſpeak in theſe dark obſcure Terms, becauſe, if he put his Argument into a *clear* Form of Words, the *Fact*, upon which it depends, glares him in the Face, and deſtroys his Argument in *one Moment*. He unqueſtionably means this, All the Lands South of 2400 Minutes North from the Equator, or South of that 40th Degree which is compleat at the Diſtance of 2400 Minutes North from the Equator, are within my Lord's Charter. Had he uſed *theſe* Words, they carry a very *clear* Propoſition in them, and neceſſarily imply another, more ſhort and more clear, that the whole Space of the 40th Degree was granted to Lord *Baltimore*; which brings it to a Fact that *that whole Degree* was granted to Lord *Baltimore*; whereas I contend, that it *was not*, *it could not*, and it *was not intended* to be granted to him, for it was, *before*, moſt preciſely, granted to the Council of *Plymouth* for the ruling of *New England*, and my Lord's own Patent declares in expreſs Terms, that his Province was to go to the Place where *New England ended*.

4. As to his firſt *Reaſon* for his Opinion, becauſe it ſeems, to him, that *Maryland* was located where *New England* ended, we contend it not only *ſeems* ſo, but is *expreſt*, as clearly as Words can expreſs, that it *really was* located where *New England ends*, and that is *what* we rely on.

5. He has a ſecond *Reaſon*; for he ſays, that *Smith* and *Ogilby* both *agree*, that *no Part* of *New England could* come more Southward than 2400 Minutes North of the Equator. I have lookt, pretty well, into *Smith* and *Ogilby* both, and don't find that *either* of them agrees to any ſuch matter——But, if they did both *agree* it, I am very ſure of two things; 1ſt, That *Smith*, who originally printed his Book in the Year 1612, (and *Ogilby* afterwards copied from him) did not mean 2400 Minutes, as one Mr. *Jones* ſhould obſerve, or judge them to be, 128 Years after he writ, *viz.* now in the Year 1740. And, 2dly, That the King's Charter, under the Great Seal, *diſagrees* both with *Smith* and *Ogilby*; for that Charter to the Council of *Plymouth* grants, in plain *Engliſh* Words, from 40 Degrees to 48 Degrees *incluſively*; whereas any *ſuch* Expreſſion of *Smith* and *Ogilby* would make it *excluſively*.

6. As to his *Reaſon* for ſaying, that *all* and *every Parcel* of the Lower Counties are included in Lord *Baltimore*'s Charter, had he ſtudied that Charter *well*, and, with it, my Lord's own *Anſwer*, he might have found *much better* Reaſons to the contrary. For, 1ſt, The Lower Counties were *culta*. 2. My Lord had (as to this Matter) only a Part of a *Peninſula*, and admits upon his own Oath, that ſome of the Lower Counties lie out of that Peninſula, for that they are up within the *Main Land and Continent*. 3. My Lord was bounded on the *Eaſt* only by the *Ocean*, not ſo much as by the *Bay* or *River*, (much leſs by the *Tide-Water*) of *Delaware*. 4. He was to go from his South Bounds, *uſque ad* ſuch Part *Æſtuarii de Delaware*, *vocat' Delaware Bay*, *quæ ſubjacet* the 40th Degree. And, 5th, Were he to go by the *Degree* (which he was not) and were he to go to the 40th Degree *compleat* (which he was not neither) yet, it muſt not be the Degree which this Witneſs has found out *now* in 1740, but the Degree as *known* then in 1632. And *that*, as my Lord *himſelf* fixt it, by his own Book and Map, printed and publiſht in 1635, three Years after his Charter, and after he had actually made his Settlement in the Country, and got acquainted with it, was, preciſely, at the *Head* of *Cheſopeak Bay*; whereas this Witneſs's *modern* Obſervation, makes it, *now*, full 26 Miles and 3 Quarters more North than it was eſteemed to be *then*.

Theſe are my poor Thoughts and Obſervations, who never learnt *Algebra*, or any *other* Part of the Mathematicks.

And I can't omit one Obſervation upon this Witneſs. He ſwears he is *Miniſter* of a Pariſh *contiguous* to *Newcaſtle* County; ſo that, ſhould my Lord, by the Help of *his* Opinion, extend his *Province*, this Witneſs will naturally extend his *Pariſh*; no ſmall Temptation to a Miniſter of *Maryland*, where, as I obſerve by the 16th Page of the *Maryland* Law-Book (proved in the Cauſe) the Miniſter is intitled to a very large yearly Allowance, of no leſs than 40 Pound of Tobacco *per* Poll, on the taxable Inhabitants (which are almoſt *every* Perſon, Servants and Slaves) within his *whole* Diſtrict; ſo that the County of *Newcaſtle*, with about 11 or 12000 Perſons in it, would make a fine Addition to Mr. *Jones*'s *contiguous Pariſh*, as well as to my Lord's *Province*.

But, for an *abſolute Anſwer* to this Witneſs's Opinion, I would apply the *ſolemn Order of Council*, made upon Lord *Baltimore*'s *own* Petition, and after many *Hearings* by Council, in the Year 1685, declaring that the three Lower Counties were *not* granted to Lord *Baltimore*, and ordering a Line to be run to divide them off, in very emphatical Terms, *to* the 40th Degree. Which Order was alſo, ſeveral times afterwards, *confirmed*.

And I would alſo apply the *Opinions* of Sir *Clement Wearg*, the preſent Lord Chief Juſtice *Willes*, and the preſent Lord Chancellor *Hardwick*, all of which, I preſume, were *far better Expoſitors* of the Charter of the Crown, than this Mr. *Hugh Jones* is; and who *unanimouſly* agree that the *Landmarks*, and not *imaginary uncertain* Points in the *Heavens*, were to be his *Boundaries*.

There is *another* Obſervation, too material to be omitted. My Lord has examined a Witneſs of his own only, one *John Miller*, (who will be mentioned by and by under *another* Head) and he has told us, not where the 40th Degree, according to modern Obſervations, is, (which would have been exceedingly material for my Lord *Baltimore* to have ſhewn, who inſiſts that he has a Right to go to the 40th Degree compleat) but he has told us the Latitude of our Cape *Cornelius*, and that it is in 39 Degrees and 5 Minutes. Now if we ſhould *believe* this ſingle Witneſs of my Lord's, and ſhould alſo *agree* that my Lord is to go quite to the 40th Degree *compleat*, even as *now* ſworn to by that Witneſs, What would be the Conſequence of that? Why the Conſequence is, that the Line given my Lord by the Articles, is 66 *Engliſh* Miles above that Cape *Cornelius*; and Cape *Cornelius* itſelf is 5 Minutes, which is 5 *Engliſh* Miles and $\frac{3}{10}$ths above the 39th Degree; ſo that we have granted to my Lord 71 *Engliſh* Miles and $\frac{3}{10}$ths above the 39th Degree compleat, conſequently two Miles and three Tenths of a Mile above this Witneſs's *new* 40th Degree *compleat*?

What can my Lord ſay to this? He muſt either ſay that his own Witneſs, who took and ſwore to that Obſervation (and the only one that fixes the Latitude of *any one* Place *whatever*) knows nothing at all of the Latitude he has ſworn to, (and which indeed is very true, Degrees being ſo uncertain) or elſe, he muſt admit that we have granted to him, already, two Miles and three Tenths above *even his preſent* Demand.

Such is the Caſe, the Defendant has made for himſelf.

5. *John Hart* of *Maryland*, Ferryman, the Defendant's Witneſs only. [*Lib.* G. *fol.* 246. *Int.* 20. *fol.* 247.] He lives at a Ferry in Queen *Anne*'s County, Part of the *Peninſula*; and the *Iſle* of *Kent* is ſeparated from the Peninſula by a Water, which, in the narroweſt Part of it, where he keeps a Ferry, he believes, is about 150 Yards wide. That the ſaid Iſland lies to the Weſtward of the Peninſula, and is Part of Queen *Anne*'s County aforeſaid.

Thomas Hynſon Wright [*Lib.* G. *fol.* 251. *Int.* 20. *fol.* 266.] Says the ſame.

Ergo, I ſuppoſe the Order of Council was *not forged*; for there is *ſuch an Iſland*, and it lies very *near the Peninſula*, and conſequently, there *muſt have been* ſuch an Order of Council relating to it.

6. The Defendant thought that *we* had not ſufficiently proved his *ſmall Loghouſe Fort*, ſo he croſs-examined *two* of our Witneſſes *about Forts*, till he got out *another very antient Swediſh* and *Dutch* Fort, in *Newcaſtle* County, one of the Three Lower Counties, which, I ſuppoſe, he did not chuſe to hear of, *viz.*

William Peterſon of *New Jerſey*, aged 92. [*Lib.* H. *fol.* 7. *Int.* 4. *fol.* 10.] Says, that when he *firſt* came into *America* (which, in Anſwer to the ſecond Interrogatory, he ſays was in the Year 1658) there was *a Fort* by the *North* ſide of *Chriſtiana Creek*, about three Miles from its *Mouth*, which was *then poſſeſt* by the *Dutch*, but, the Deponent was informed, *originally built by the Swedes*, to keep Poſſeſſion from the *Dutch*.

John Rambo of *New Jerſey*, aged 79. [*Lib.* H. *fol.* 19. *Int.* 4. *fol.* 23.] *He remembers the Ruins of a Fort*, which ſtood about 3 or 4 Miles up *Chriſtiana Creek*, on the North-Eaſt ſide thereof, and as he believes about 4 Miles North-Eaſt from the Town of *Newcaſtle*—— He has been informed by his Father, and *other ancient* People, that the ſaid Fort was built and maintained by the *Swedes*.

I doubt this is *not* the Fort the Defendant wanted to enquire after; but he has got it, and by it, has himſelf proved, that the *Swedes* and *Dutch* had been ſettled there, *not* Lord *Baltimore*.

7. The following *nineteen* Depoſitions tend to prove *two* Points; 1. That my Lord *Baltimore* did, about 1673, burn and *deſtroy* a Place, then called the *Whorekills*, now called *Lewes-Town*. 2. The *Place* where thoſe *Whorekills* were; and *that*, for a *two-fold* Purpoſe, *viz.* in order to affect our Cape *Cornelius*, as well as to ſhew what he did to *aſſert* his Right in the Three Lower Counties.

Boudoin Robins of *Maryland*, aged 34. [*Lib.* G. *fol.* 282. *Int.* 7. *additional fol.* 286.] Has *heard* of a Place called the *Whorekills*, which is now called *Lewis-Town*, and he underſtands lies in *Suſſex* County, about *five* Miles diſtant from Cape *Hinlopen*, markt in the Plan before produced to him Cape *Cornelius*, and lies *oppoſite to Cape May*. Knows the Places on the Sea-Coaſt called *Indian River*, and *Phenix's Iſland*. *Believes* the *Whorekills* is diſtant, Northward, from *Phenix's Iſland* aforeſaid, about *twenty-two Miles*, and about *twelve* Miles to the Northward of *Indian* River.

John Miller of *Maryland*, aged 44. [*Lib.* G. *fol.* 271. *Int.* 7. *addit. fol.* 277] Has been at a Place, formerly called the *Whorekills*, and now called *Lewis-Town*, which lies in *Suſſex* County, that is *near oppoſite* to a Point of Land called *Cape May* in *New Jerſey*. Has *heard* that the *Whorekills* aforeſaid were *burnt*, by one of the Defendant's Officers and Men, but knows not on *what* Occaſion. Is acquainted with *Phenix's Iſland* and *Indian River*, and that the *Whorekills* is about *twelve* or *thirteen* Miles Diſtance, Northward, from *Indian River*, and about twenty two or twenty three Miles Diſtance Northward, on a ſtrait Line, from *Phenix's Iſland*——That the *Whorekills* is ſituate *within Delaware* Bay, *upon a Creek*, about *five Miles Diſtance* from the Pitch of the Cape markt Cape *Cornelius* in the ſaid Exhibit.

Albert Cox of *Maryland*, aged 47. [*Lib.* G. *fol.* 90. *Int.* 7. *additional fol.* 91.] Has *heard* of a Place called the *Whorekills*, and has heard his Father ſay that he was preſt for a Soldier to go *burn and deſtroy all before them* at the *Whorekills*; but whether it was done or not, cannot tell.

Colonel *Thomas Colvill* of *Maryland*, aged 50. [*Lib.* G. *fol.* 120. *Int.* 7. *additional fol.* 123.] Has *heard* of ſuch a Place as is called the *Whorekills*, which, he *underſtands*, is the ſame Place now called *Lewis-Town* in *Suſſex* County; Has *heard* of ſuch a Place as *Indian* River, but knows nothing of it.

Thomas Hynſon Wright of *Maryland*, aged 52. [*Lib.* G. *fol.* 251. *Int.* 7. *additional fol.* 267.] Has *heard* of a Place or Town called the *Whorekills*, lying in *Suſſex* County, and has always *underſtood* that the Place now called *Lewis-Town*, is the Place formerly called *Whorekills*, and lies *oppoſite* to a Point on the North ſide of *Delaware* Bay called *Cape May*. Has heard *ancient People* ſay that the *Whorekills* was formerly *ſettled by the Dutch*, and *refuſed* Obedience to one of the Defendant's Anceſtors; who, thereupon, ſent Officers to ſubject them, and that, he underſtood, they *burnt and deſtroyed* their Habitations.

Gideon Tillman of *Maryland*, aged 57. [*Lib.* G. *fol.* 202. *Int.* 7. *additional fol.* 203.] Has been *told* by his Father, that he lived with Colonel *Francis Jenkins*, upon the *Whorekill Creek*, and that the Place in *Suſſex* County, where *Lewis-Town* is now built, is the Place was formerly called the *Whorekill Town*; and hath alſo *heard* his Father ſay that it was oppoſite to a *Cape*, but does not remember the Name. Has *heard* his Father ſay, that *every Houſe* at the *Whorekill*, and the Houſe his Father lived in, were *burnt*, except a Houſe called the Cave, which belonged to a *Dutchman*: And *heard* his Father ſay it was burnt by one Captain *Howell*, *to prevent the Dutch taking of it*, *for that the ſaid Dutch had taken New-York*, *or ſome other Place*; And that the People of the Town, complaining of the Burden of maintaining the Soldiers, Captain *Howell* went from the Town, under a *Pretence* of ſeeking *Relief* from the Lord *Baltimore*, came back the next day, and ordered the Soldiers to ſeparate, and *go two together to each Houſe*, and *burn them*; which they *accordingly* did, after having taken the Arms out of the reſpective Houſes; and then, being afraid to ſtand it, the ſaid *Howell* ran away to *New-York*. And further has *heard* his Father ſay, that he helpt to carry the Chain for the ſaid *Jenkins*, to *ſurvey* ſeveral Tracts of Land, under the Lord *Baltimore*, *near* the *Whorekill Town*, and in *particular* to ſurvey *the Land*

on which the said *Town flood*, before the burning the said Town as he believes—And that the said Colonel *Jenkins* and his Father, sent their Wives away, from the said *Whorekill Town*, to *Somerset* County in *Maryland*, before the said Burning, *for fear of the Dutch*. And that, after the Burning aforesaid, the said Colonel *Jenkins* and his Father went themselves to *Somerset* County aforesaid.

George Veasey of *Maryland*, aged 61. [*Lib.* G. *fol.* 82. *Int.* 7. *additional fol.* 85.] Has *heard* of a Place called the *Whorekills*, lying in *Sussex* County, but never saw it. Has *heard*, from some *ancient* Men, that Lord *Baltimore* made a *Demand* of the said Place, and that the People there *refused* to become Tenants to the Lord *Baltimore*, whereupon the Lord *Baltimore* sent a Party of Men, who burnt a Part of the Town.

James Potter, aged 64. [*Lib.* G. *fol.* 150. *Int.* 7. *additional fol.* 152.] Is well acquainted with the Place or Town formerly called the *Whorekiln*, which is now called *Lewes-Town*. That it lies in *Sussex* County. That the *Whorekills*, now called *Lewis-Town*, lies *opposite* to a Point or Cape of Land called Cape *Hinlopen* or *Henlopen*, there being a Creek that runs *between* the Town and Cape aforesaid—Has *heard* his Mother say, that her Father removed out of *Somerset* County in *Maryland*; and *settled* at a Place called *Rehoboth*, within *seven* Miles of the *Whorekills* aforesaid; That, some time after, the then Lord *Baltimore sent* a Captain, with 40 Men, *to defend the People there from the Heathen*; That the People, being poor, could not maintain the Men sent by Lord *Baltimore*, but that the People sent his Lordship *Thanks*, for sending to *protect* them, but desired the Men might be taken away, because the Inhabitants were *poor*, and could not maintain them. Whereupon the Lord *Baltimore*, as this Deponent has *likewise* heard, said, Poor Rogues! Can't they maintain 40 Men? And, afterwards, sent the said 40 Men *to burn the Houses*, which *was done*. Whereupon the People then sent this Deponent's Grandfather, and another Person, to *New York*, to sollicit Relief for the Injuries they had sustained—He has *heard* of *Phenix* Island, and is acquainted with *Indian* River. Does not know how far *Indian* River is to the Southward of the *Whorekiln*, but says that *Indian River divideth* the County of *Somerset* and *Maryland*, *from Sussex County*.

Robert Money of *Maryland*, aged 65. [*Lib.* G. *fol.* 36. *Int.* 7. *additional fol.* 38.] Has heard his Father, *Jeffry Peterson*, and *Guiseman Cock*, say, they were prest, to serve under one Captain *Howel'*, as Soldiers, to attack and demand Possession of a Place called the *Whorekills*, for the Lord *Baltimore*, and that they went and burnt a Barn and some Outhouses, and to the best of his Remembrance, that the Inhabitants submitted to them. And he understood that this Transaction was about sixty-seven Years ago [1673].

William Price of *Maryland*, aged 66. [*Lib.* G. *fol.* 59. *Int.* 7. *additional fol.* 61.] Has *heard* there is such a Place as is called the *Whorekills*, in the County of *Sussex*, but never saw it. Has *heard* his Father say that Soldiers were sent from *Maryland*, that did burn some *Wheat-Fields*, or *Stacks of Corn*, at or near the *Whorekills*, and that there was not above six or eight *Dutch* or *Swedes* Families there, at *that* time; but *how long* it is since the same happened, or was done, does not remember to have heard.

Walter Scott of *Maryland*, aged 60. [*Lib.* G. *fol.* 52. *Int.* 7. *additional fol.* 54.] Has *heard* of a Place called the *Whorekill*. Has heard that the *Whorekills* borders upon the Sea and *Delaware*. *Heard* one *John Atkey* say, that he was *one of the Soldiers* that was sent to subdue the *Whorekills*. And also heard him *talk* of burning and subduing, but what he does not remember.

Margaret Simpson, aged 69. [*Lib.* G *fol.* 194. *Int.* 7. *additional fol.* 195.] Has *heard* the Place now called *Lewis-Town*, was called the *Whorekill-Town*, as she apprehended by way of Ridicule, and that the proper Name she understood to be *Lewis-Town*, ever since *she knew* it, and lies *over-against* Cape *May*. Heard that *Lewis-Town* was taken and burnt by some Persons, but by whom, or on what Occasion, knows not. *Knows* a Place called *Indian River*, and that, about 40 Years ago, she lodged at the House of one *Jenkins*, who said he was a Tenant of one *William Clark* of *Lewis-Town*. And she knew one *John Stokely*, who lived about a Mile to the *Southward* of the Place where *Jenkins* lived, and *below* the Place where *Indian* River now empties itself into the Sea; which said *Stokely* was, while he lived *there*, to the best of her Remembrance, a *Justice of the Peace* for the County of *Sussex* aforesaid. And believes the Mouth of *Indian River* is about *eighteen Miles* distant from *Lewis-Town* aforesaid, and lies to the *Southward* of the said Town.

Martha Johnson, uncertain of her own Age, but believes 72. [*Lib.* G. *Fol.* 210. *Int.* 7. additional *Fol.* 211.] Knows a Place, which was called the *Whorekills*, and is called *Lewis* Town, and lies in *Sussex* County. And she knows of no Cape opposite to it, but *the Cape* near *Lewes* Town—Says she *saw* the *Whorekils burnt*, when she was a Girl, and her Father's House in particular; but by whom, or by whose Order, knows not, but has heard it was done by one Captain *Howell*. She has heard of *Indian* River and *Phenixes* Island, but does not know where they lie.

John Webster of *Maryland*, aged 72. [*Lib.* G. *Fol.* 125. *Int.* 7. additional *Fol.* 126.] Knows a Place called the *Whorekills*, lying in the County of *Sussex*. That it lies upon a little Creek. That over *or opposite* to it, across the Creek, there lies a Cape, that was called Cape *Hinlopen* when *he* lived there, which was about 51 Years ago, [about 1689] Knows a Place called *Indian River*, which lies 10, 12 or 14 Miles to the *Southward* of the *Whorekills*, and is not acquainted with the Sea Coast.

The last Witness we cross examined.

James Morgan of *Maryland*, aged 80. [*Lib.* G. *Fol.* 91. *Int.* 7. additional *Fol.* 93.] Has *heard* of a Place called the *Whorekills*, and has been told, by two Persons, that they went along with Captain *Howell*, who had a Commission from Lord *Baltimore*, to burn and destroy the *Whorekills*. That, when they came there, they gave the Inhabitants three Days time to remove their Effects. That the *Dutch* Families did take the greatest Part of their Effects away; but the *English* Families that were then there said, *They* would remove nothing, and if they would burn they might; That thereupon, they fired the Town and returned home.

John Fleaharty of *Maryland*, aged 102. [*Lib.* G. *Fol.* 145. *Int.* 7. additional *Fol.* 148.] Knows the Place formerly called the *Whorekills*, the Place which is now called *Lewes* Town, opposite to *Cape May*, and near Cape *Hinlopen*, marked Cape *Cornelius* in Lord *Baltimore*'s Map. And says that the *County* of *Sussex* was *formerly* called *Whorekill County*. Has heard the Lord *Baltimore* sent an Officer, and some Men, to demand Possession of the *Whorekills of the Dutch Inhabitants*, which they refused to give; upon which, he *heard*, some Houses were burnt. Knows the Place called *Indian River*, and that the *Whorekill* Town, now called *Lewes* Town as aforesaid, is about 7 or 8 Miles to the *Northward* of *Indian* River as he believes.

Isaac Freeland, [*Lib.* H. *Fol.* 65. *Int.* 10. *Fol.* 67.
George Ross, [*Lib.* H. *Fol.* 69. *Int.* 10. *Fol.* 73.
} That the Town, now called *Lewes*, was formerly called the *Whorekills*, and that they are one and the same Place.

John Teague, our Witness, [*Lib.* H. *Fol.* 43. *Int.* 5. additional *Fol.* 45.] Was also cross examined to this; and he says that *Lewes* Town, and the Place formerly called the *Whorekills*, is one and the same Place.

To what End the Defendant examined these 19 last Witnesses, I don't know; nor have we cross examined any one of them (save *John Webster* and *George Ross*, and our own Witness *Teague*) to *any* Matter *whatever*.

It is most certain, and we readily *admit*, that the Cape, near *Lewes* Town, which in my Lord's Map was marked Cape *Cornelius*, (and *rightly so*, according to *all the ancient* Maps) has been, for several Years past, called, by *some* Persons, Cape *Inlopen* or *Hinlopen*; The *Name* of the old Cape, which was a deceitful Cape to Sailors, or something *like* that Name, being, *latterly*, transferred up, from *Phenix*'s Island, to the *Place* where there is a *real* and *actual* Cape, which is at the *Mouth* or *Entrance* of *Delaware* Bay, and is nearly *opposite* to Cape *May*. But *this* Fact, if it stood *alone*, is of no sort of Service to Lord *Baltimore*; But it is accompanied, by his *own* Witnesses, with such *other* Facts as prove the *Substance* of the thing entirely with us.

Do these Witnesses prove that the *Whorekills* is *the Place* which was *originally* called *Hinlopen* by *the Dutch*, and so named in *their Maps?* For that's the *precise* Matter put in Issue by my Lord's Answer, as the Instance of Deceit upon him?

Is there any *Possibility* of Doubt whether the *old* Cape *Hinlopen* was, or was not, at the *Mouth* of the Bay? Certainly there *can* be none. Where does the *very first Dutch* Record that we have, in the Year 1629 or 1630, place it? Why 8 *great* Miles (8 Leagues) *South* of the *Bay* of the South River. Where does the Order of Council of 1685 place it? Why down somewhere *in the Sea*; for the Peninsula, which was then, (by the Parties *Agreement* as I may say) to be divided, was such a Peninsula as was bounded by *Delaware* River, *Delaware* Bay, *and the Ocean*; which *last* Boundary had been absolutely wrong if the old Cape *Hinlopen* had lain at the *Mouth* of the *Bay*. Where do all the *ancient Dutch* and *Swedish Maps* place Cape *Hinlopen?* Why just as my Lord's own Map does, and as the Articles express it, *South* of Cape *Cornelius*.

Do these Witnesses fix this *New* Cape *Inlopen* or *Hinlopen*, to be the *South Bounds* of *Sussex* County? No. If the Fact had come out *so*, Then, *indeed*, my Lord's Map might have been *wrong*, and might have *deceived* him; but all his own Witnesses, as well as ours, say, that this *New* Cape *Hinlopen*, was *not* the South Bounds of *Whorekill*, or *Sussex* County; but, that *Sussex County* went down to *Indian River*, and below *or South of Indian* River, and that a Magistrate of *Sussex* County lived in that *South* Place; and that that *Indian River*, itself, *now, at this very time*, *divides Maryland* and *Pensilvania*; which *Indian River* they make to be 12, 13, 14, or even 18 Miles South of, or below the *Whorekill Town*, or this new Cape *Hinlopen*. So that, had we taken our *South* Bounds of these lower Counties (as my Lord *Baltimore* insinuates we *ought* to have done) up, at this *New* Cape *Inlopen* or *Hinlopen*, tho' he himself *gave* us, and we were *really intitled*, down to the *Old* Cape *Hinlopen*, *We* should have been *deceived* with a witness, for we should have given up to him 18 Miles of what his own Witnesses prove is in *our actual* Possession. And please to note all our Witnesses and Evidence prove our *true* South Bounds go down lower yet, *quite down* to the *Old* Cape *Hinlopen*. And altho' my Lord's Sheriff of *Somerset* County made a sort of *fresh Pursuit*, for the first time, up above *Phenix* Island, near to *Indian* River, only about the Year 1696, when one *Peter Waples* run away for Debt out of *Maryland*, yet, he has not proved *a single Settlement* made by him *North* of *Fenix*'s Island, to this Hour.

I would here, in time, observe one thing, the Defendant imagines that the *Whorekills*, and the Cape, are *synonimous Terms* for one and the same *Punto* or *Point* of Land, whereas, the *Whorekills* was always a *District* or *Territory*, and a *very extensive* one, under the *Dutch*, and the Duke of *York*, and was made into a *County* (with its *particular Bounds*, which pray mark, in the written Evidence) by *William Penn*, as soon as ever he took Possession of the County in 1682. Who then, *instantly*, granted out *to Fenix*'s *Island*, which is the *old* Cape *Henlopen*, to the Duke of *York*, to himself, and to numbers of *other* Persons; and *the Cape* is a *Point of Land only*, not a District or County.

Well, but my Lord made all this Proof, for *another* Purpose also; for he swears, *Fol.* 77. that he believes his Ancestors exercised *all* Acts of *Proprietorship* and Government in the Lower Counties, and again, *Fol.* 188, that he and his Ancestors have claimed, maintained and supported their *Right* to the lower Counties, and have been at Expence in building Fortifications therein, to *defend* the Inhabitants from the *Indians*. So that this *most cruel* Action, of burning the *Whorekills*, the *Wheat Fields*, the *Stacks of Corn*, the *Barns*, the *Out-houses* and the *Dwelling-houses* of all the poor Inhabitants, was a [*Maryland*] Act of *Proprietorship*, and which he, also, did, in a very *good* Humour, and under Terms of great *Pity* and Compassion to the poor People. What, are they poor, can't they maintain 40 Men? Then, burn all that the poor People have in the World! A *dreadful* Act of *Propriety!* And what aggravates the *Inhumanity* of this *savage* Action is, that these Men were sent, *colourably*, to *defend* the Inhabitants from the *Dutch*, (at a remarkable time, about 1673, when the *Dutch* threatned, and actually did *re-enter*) and to defend them from the *Heathen*; but, in *reality*, to burn all they had in the World. This is *his* way of Asserting his Right, and *defending* his Tenants; And what do *his own* Witnesses prove, besides and *beyond all this?* Why, that the Town was *settled before*. But, *then*, he burns out the People, and falls to *surveying the very Town*, which our Witnesses, and his too, prove to have been *then* an *ancient* settled Town by the *Dutch*.

There is one *other* Instance, or two, of my Lord, and his Ancestors, *asserting* their *Right* to the lower Counties, which his *Witnesses* don't mention. His Grandfather *invented*, and he *revived*, a *sham* Order of Council about *Clayborne* and the Isle of *Kent*; and he himself is denying, and swearing away, his own solemn Agreement; which are Acts *highly worthy* to be ranked along with the *foregoing* Instance; being, each of them, an Act of so high and flagitious a Nature, as none, but himself, would give an Opportunity to have told of them. But please to observe, besides all the *Depositions* which prove that my Lord *Baltimore never* possessed the *Whorekills*, but that the *Dutch*, *the Duke* of *York*, and Mr. *Penn* did, our *written Evidence* not only corrects the *Time* of this Transaction, that it was about *June* or *September* 1672; but it shews that Lord *Baltimore could not* possess the *Whorekills*; for, on 12th of *August* 1672, there is Governor *Lovelace*'s Letter to the Governor of *Maryland*, demanding Reparation for some *former* Insult. And on 14th *April* 1673, the Governor of *New York* sends the Magistrates of *Newcastle* down, to *hold a Court* at the *Whorekills*, to enquire into the late irregular Proceedings there, and to settle the *Government* and *Officers* there, *under the Duke's* Authority, as *formerly*. And that was *immediately* succeeded by the Re-entry of the *Dutch*. After which, and after the *English* being again repossessed, *viz.* on 6th *November* 1674, there is Governor *Andros*'s Commission to Captain *Cantwell* and Mr. *Tom* to *repossess* and settle the People in their *just Rights* at the *Whorekills*; and 5 Days after that, *viz.* on 11th *November* 1674, there is Governor *Andros*'s *further Commission*, to them two, to administer the Oaths to the Magistrates at the *Whorekills*. And on 9th *January* 1674, there is his Letter to Captain *Cantwell*, thanking him for *having settled* the Magistrates at the *Whorekills*.

So that, the burning the *Whorekills* by Lord *Baltimore* was an Act of *Power* and *Force*, but not attended with any *Possession*.

8. *Note*, before we go any further in the Defendant's Proofs, it may be necessary to observe, that the following *eight* of the Defendant's Witnesses, here named, were never at all examined by us, to *any* Point whatever; but, in the Defendant's own Examination of them, they have proved themselves to be *interested* in the Dispute; so that we *object* to them as being *disqualified*. Their *Names*, and the *Places* where they prove their *own Interest*, are here under marked. So that, as often as *their* Depositions are mentioned, we put the Mark • before their Names.

• *William Barnes*, *Lib.* G. *Fol.* 181. *Int.* 6. *Fol.* 182.
• *Zebulon Hollingsworth*, *Lib.* G. *Fol.* 64. *Int.* 2. additional *Fol.* 66.
• *Ann Holy*, *Lib.* G. *Fol.* 103. *Int.* 8. additional *Fol.* 106.
• *Daniel Needham*, *Lib.* G. *Fol.* 155. *Int.* 6. *Fol.* 156.
• *Benjamin Peirce*, *Lib.* G. *Fol.* 94. *Int.* 21. *Fol.* 95.
• *Nicholas Ryley*, *Lib.* G. *Fol.* 41. *Int.* 11. additional *Fol.* 42.

* *Adam Short*, *Lib.* H. *Fol.* 60. *Int.* 8. *Fol.* 61.
* *Richard Thompſon*, *Lib.* G. *Fol.* 109. *Int.* 21. *Fol.* 110.

9. *Joſeph Roſe*, the Defendant's Witneſs, [*Lib.* H. *Fol.* 40. *Int.* 2. *Fol.* 40.] Says that a Paper Writing, N° 1. (endorſed a Copy of the *Exemplification* of Letters Patent from King *Charles* the Second to the Duke of *York*, taken from the publick Regiſtry kept in the Secretary's Office in *New Jerſey*)—Alſo the Paper Writing, N° 2. (endorſed *Copy of Part* of a Deed from the Duke of *York*, to the Lord *Berkeley* and Sir *George Carteret*, taken from the ſaid Regiſtry)——are both of his Hand Writing, and are *true Copies*, taken from the ſaid Regiſtry, kept in the Secretary's Office at *New Jerſey*, he having examined them, the *&c.* at the End of N° 2. *excepted*; The *Reaſon* of *that* being there is, becauſe he was *ordered by the Defendant's Council to copy no more* of the ſaid Deed. That this Deponent acts for one Mr. *Home*, who is Deputy Secretary of *New Jerſey*, and this Deponent has the Care and Keeping of the Books, Papers and Records kept in the ſaid Secretary's Office.

I don't know whether N°. 1. is the *firſt* Grant in 1663, or the *ſecond* Grant in 1674, which was made of *New York*, to the Duke of *York*; but we have proved *both* of them from the Chappel of the Rolls here.

As to N°. 2. which is plainly the Duke's Grant of *New Jerſey*, I know there *was ſuch* a Grant, but don't know the Contents, and as the Defendant's Council have garbled it, and ordered the taking a Copy of *a Part only* of it, we deſire that *Part* may *not be read*.

Colonel Robert King, of *Maryland*, aged 51. [*Lib.* G. *fol.* 319. *Int.* 16. *fol.* 320.] Has lookt upon a Paper Writing markt N°. 7. and endorſed (*Extracts* out of the *Regiſtry Books* kept by *James Weedon*, and *Francis Jenkins*, Surveyors of Land on the Sea-ſide and *Delaware* Bay) and that they are *true Copys*, taken from a Book of *Certificates*, which belonged to Colonel *Francis Jenkins* deceaſed, who, in his Life-time, was Surveyor of *Somerſet County* from 1671 to about 1680, *as this Deponent has heard*; [*Note*, This Deponent was not born until 1689] and that the *Entrys*, of which the ſaid Papers purport to be Copies, which are ſigned by the Name of *Jenkins*, he *believes* to be made in the Books, by the ſaid *Jenkins*, whoſe Hand-writing the Deponent was well acquainted with, having lived with him ſeveral Years. And that *the reſt* of the Entrys, of which the ſaid Papers purport to be Copys, *he has heard*, were made by one *James Weedon*, who was a Surveyor, *as he has alſo heard*, but was not acquainted with *Weedon*, or his Hand-writing.——And he *believes* the ſaid Entries, ſo made by the ſaid *Jenkins*, was made *as Surveyor* of the County aforeſaid, [that is *Somerſet* County in *Maryland*] and that, *by the Deſcriptions of the Lands* in the ſaid Entries mentioned, he *ſuppoſes*, *ſome* of the ſaid Lands to lye *about* the *Whorekills*, and the reſt to lye between *Delaware Bay* and *Indian River*, and that the ſaid *Jenkins* was the *firſt* Perſon this Deponent *ſaw* poſſeſt of the ſaid Book, who continued poſſeſt of the ſame till his Death; and that, after his Death, it remain'd, *ſome time*, in Poſſeſſion of *Jenkins*'s Widow, from *whom* this Deponent received the ſaid Book, and he has compared and examined the ſaid Paper Writing, by the Original *Papers* whereof they purport to be Copies, with three Perſons, within the Space of *four or five Months* laſt paſt.

This is a moſt *ſtrange* Depoſition. He has *heard* that *Jenkins* and *Weedon* were Surveyors, but does not ſay that he *believes* it; and theſe *Entrys* or *Papers* have been in a *private* Perſon's Hands, and he ſuppoſes they relate to Lands in *ſuch* and *ſuch* Places.

We beg that *not a Paper* of theſe may be read, theſe were made where the Order of Council of 1638 was.

Griffith Beddoe, of *Maryland*, [*Lib.* G. *Fol.* 18. *Int.* 11. *Fol.* 23.] Has lookt on the Exhibit N°. 4. purporting to be Extracts *or* Copies of ſeveral Grants or Patents of Lands, recorded in the Land Record Books of *Maryland*, and they are true and exact Copies of what they purport to be Copys of, out of the Land Record Books of *Maryland*, and he examin'd them, with the ſaid Record Books, a few Days before he was examined; ſays the ſaid Record Books *are* kept in the Land Office in the Statehouſe of *Maryland*, and that the Entrys of the ſaid Patents, in the ſaid Record Books, *appear* to be *fair and regular*, and to be done, *at the times they ought* to have been enter'd and recorded *according to the Uſage and Practice* of *Maryland*.

This is a very *ſuſpicious* piece of Evidence; the Witneſs does not venture to ſay that he *believes* they were fairly entered at any ſuch *times*; only that they *appear* to be fair, and to be done at ſuch times as by the *Uſage and Practice there* they ought to be done.

And we remember that they make Returns of *Surveys* there, without *ſeeing the Land*, and ſo they may make Entries, according to *their Uſage*, without ſeeing the Grants.

Griffith Beddoe of *Maryland*, aged 39. [*Lib.* G. *fol.* 18. *Int.* 10. *fol.* 19.] Is acquainted with the uſual Method of *taking up*, and *patenting* Lands in *Maryland*, which he became acquainted with by being a Clerk in the Land-Office ever ſince the Year 1727. And the Method has been as follows: The Perſon applying for Land, pays the Proprietor's Agent the uſual *Fine* for the Number of Acres he deſires, who gives a Receipt, directed to the Chief Clerk in the Land-Office, who makes out a Warrant for ſuch a Number of Acres, directed to his Lordſhip's Surveyor; who, *as he ſhall be directed* by the Perſon who obtains the Warrant, ſurveys *the Quantity* of vacant *uncultivated* Land, in *any* Part of the Province *where it is deſired*, and returns a *Certificate* to the Land Office; from whence it is tranſmitted to the Examiner-General, for Examination; and when the Certificate has paſt the Examiner's Office, a Patent is, in the Land-Office, made out, carried to the Chancellor to be ſigned, thence, to the Keeper of the Seal, to be ſealed. And, after that, the Patent and Certificate recorded in the Land-Office——That the *Place*, where *cultivated*, vacant Lands are deſired to be taken up, have, always, been *particularly* deſcribed, in *ſpecial* Warrants, *ſince he has been* a Clerk in the ſaid Office——That the Perſons obtaining *common* Warrants have been at liberty to take up vacant *uncultivated* Lands, in *any* Part of the Province, within 6 Months after the Date. And that all Warrants, be they ſpecial or common, if they *are* not executed in 6 Months from their Date, *are* of no force, unleſs renewed before the 6 Months expire. That all Warrants, that iſſue out of the Land-Office, *are* aſſignable, from one Perſon to another; That all Patents for Lands were granted under the *Great Seal* of the Province. And the *Eſtate* granted, a *Fee Simple*.

A great deal of Ceremony, to no manner of Purpoſe; for they have confeſt that theſe *Returns of Surveys* are often made without ſo much as a *View of the Spot* certified to be ſurveyed.

Beſides this Witneſs does not pretend that this was, *heretofore*, the uſual Method of making Grants in *Maryland*.

And my Lord in his own Anſwer, *fol.* 291. ſays, that *this* Method of vacating Warrants, if not made uſe of, has been in Uſe for 15 Years before his Anſwer, that is, from 1722.

John Roſs of *Maryland*, aged 44. [*Lib.* G. *fol.* 303. *Int.* 9. *fol.* 305.] Is acquainted, and converſant in, the *Council-Books* of *Maryland*, having been appointed Chief Clerk of the Council there in 1728, and continued ſo ever ſince. Says the Paper-Writings markt N° 3. (endorſt *Extracts of Copies* from the Council-Books of the Province of *Maryland*) are true Copies from the ſaid Council-Books, and were copied by himſelf and another, *within five Months paſt*, compared and examined the ſame, by the Originals of which they purport to be Copies, and that *the* Council-Books [he does not ſay the ſaid] are kept at the Council-Office, at *Annapolis*. And that the Articles in the Council-Books, of which the Exhibit aforeſaid purports to be Copies, *appear* to be *fairly* made, and, *as he believes*, were done at the time the ſeveral Matters by the ſaid Dates of ſuch Entries, are ſuppoſed to have been tranſacted.

We don't know what *theſe* relate to, but ſuppoſe they relate chiefly to Colonel *Talbot*'s Loghouſe or Fort ſet up in 1683. But don't care to admit theſe, for fear of ſome foul Play in them. Nor are the Books of the Minutes of Lord *Baltimore*'s Council, *Records*; nor ventured to be called *ſo*; wherefore hope they ſhall *not be read*.

James Boyden of *Philadelphia*, Merchant, the Defendant's Witneſs, aged 30. [*Lib.* H. *fol.* 100. *Int.* 2. *additional fol.* 101.] Has lookt upon the *Paper-Writings* markt N° 5. and ſays that the *Extracts* and *Copies* therein contained, he believes to be true Copies of what they purport to be Copies, having been examined by this Deponent, and the Deputy Secretary of *New-York*, this Deponent *reading the Original Records*, while the Deputy Secretary lookt over the ſaid *Extracts* and *Copies*, and corrected them according to the ſaid *Originals*.

Note, We have *too much* Reaſon to fear *every* thing which comes from the Defendant; and as to *Extracts*, they can't be read; nor are theſe *Copies*, I think, duly proved, the Witneſs *read the Originals only* to the other Perſon.

William Ghiſelin of *Maryland*, aged 36. [*Lib.* G. *Fol.* 249. *Int.* 19. *add. Fol.* 249.] That the *Parchment*-Writing markt N°. 9. purporting to be Letters Teſtimonial of ſeveral Copys, or *Extracts*, from the Records in the Secretary's Office in *New York*, and he examined and compared the ſame in the Fort at *New York*, with the Deputy Secretary there, by the original *Record Books*, of which the ſame purport to be Copys *or Extracts*, and the ſame are true Copys, *or Extracts* from the original Record-Books.

I believe this *Parchment* Writing is really a *Paper* Writing; but no *Copys* from *New York* will hurt us. What his *Extracts* are, I don't know; and if they are Extracts *or Abſtracts*, they are not Evidence.

10. The Defendant wanted to know, who were the *firſt Diſcoverers*, who were the *firſt Settlers*, and what were the *firſt Names*, of the *three Lower Counties*; in order whereto he examined *two* of *his own* Witneſſes, *viz.*

Charles Hillyard, of *Kent County*, aged 63.] *Lib.* G. *Fol.* 158. *Int.* 3 & 4. *Fol.* 160.] Does not *know* who were the Perſons that *firſt diſcovered* the three Lower Counties; and the *firſt Name* he heard the ſaid Counties called by, was *the Territories of* Penſilvania; and hath *ſince* been called the Counties of *Newcaſtle*, *Kent* and *Suſſex* upon *Delaware*. And that they have been *generally*, ſo called, by all the Inhabitants of the three Lower Counties, and *ſome* of the People of *Maryland*, with whom he has occaſionally converſed upon *that* Subject.——That he underſtands the Lower Counties to be *diſtinct*, both from the Provinces of *Penſilvania* and *Maryland*.

The ſame. [*Int.* 4. *fol.* 162.] Has heard the *firſt Chriſtian Inhabitants and Settlers*, of the three Lower Counties, were *Swedes*; and that they were, *afterwards*, ſettled by the *Dutch*; and that ſome *Parts* of *Newcaſtle* County and *Suſſex* County, were *firſt* ſettled; the *Settlement* made in *Suſſex* County was, then, called the *Whorekiln*. That the *Swedes* and *Dutch*, where they ſettled, *made Plantations*, as he has been informed by one *William Clerk*, *Receiver of Rents*, and Surveyor for *William Penn* Eſq; and ſeveral *other* Perſons.

John Holliday, of *Kent* County, aged 39. [*Lib.* G. *fol.* 170. *Int.* 3. *fol.* 172.] *He* never heard them called by any *other* Name than *Newcaſtle*, *Kent* and *Suſſex*, or the three Lower Counties. He does not underſtand that they are within *either* of the Provinces of *Penſilvania* or *Maryland*, but under a *ſeparate* Government, and *diſtinct* from each. But has heard that the ſaid Counties have been *claimed* by the Proprietors of *Penſilvania*; and alſo by the Proprietor of *Maryland*; and that the *ſame Perſon* who exerciſed the Acts of Government in *Penſilvania*, has, *ever ſince this Affirmant's arrival*, exerciſed the Acts or Powers of Government *in the ſaid three Counties*.

11. The Defendant's *own* Witneſſes not coming out to his liking, he next *croſs-examined* the *nine* following of our Witneſſes to prove that the *new* Cape *Hinlopen* lies oppoſite to Cape *May*.

Thomas James of *Philadelphia*, Pilot, aged 49. [*Lib.* H. *fol.* 12. *Int.* 2. *fol.* 13.] Was born in *Penſilvania*, and has reſided in, and near, it ever ſince. He knows the Places called Cape *May*, Cape *Henlopen*, and the *Whorekills*, which laſt is generally now called *Lewes*. Has known the ſame above 28 Years. That Cape *May*, and the Cape *now called Hinlopen*, lye *oppoſite* to each other, and make the *Mouth* of *Delaware* Bay.

Elizabeth Morris Widow, aged 65. [*Lib.* H. *fol.* 26. *Int.* 2. *fol.* 27.] Lived from her infancy till ſhe was above 20, in *Suſſex* County, and the reſidue of her time in *Philadelphia*—Has ſeen Cape *May*, and *the Cape* oppoſite to it, at the *Whorekills*, which *bore* the Name of *the Whorekill Cape*, and Cape *Hinlopen*, as ſhe believes—Has known the aforeſaid Places 55 Years. That they have been reputed to be the Capes of *Delaware*.

Samuel Hollingſworth, Farmer, aged 67. [*Lib.* H. *fol.* 29. *Int.* 2. *fol.* 30.] Came into *America* in 1682, lived in *Newcaſle* County from thence to 1701, and has reſided ever ſince in *Cheſter* County in *Penſilvania*.

John Muſgrave, Farmer, aged 73. [*Lib.* H. *fol.* 34. *Int.* 2. *fol.* 35.] Has lived ever ſince 1682 in *Penſilvania*, and one of the three Lower Counties.

Samuel Preſton Eſq; aged 75. [*Lib.* H. *fol.* 104. *Int.* 2. *fol* 105.] Has lived in *Maryland*, the three Lower Counties, and in *Penſilvania*, from his birth to this time. Has known Cape *May*, Cape *Hinlopen* and the *Whorekills* above 50 Years.——That Cape *May* and Cape *Inlopen* from [it ſhould be *form*] the *Mouth* of *Delaware* Bay, and have, always, ſince he knew them, been reputed to do ſo; and are *oppoſite* to each other. That the ſaid Cape *Inlopen* is near to the Town now called *Lewes*, but formerly the *Whorekills*.

John Rambo, of *New Jerſey*, Farmer, aged 79. [*Lib.* H. *fol.* 19. *Int.* 2. *fol.* 20.] Was born in the Place now called *Penſilvania*, near where the City of *Philadelphia* now ſtands; where he reſided for above the firſt 20 Years of his Life, and ſince reſided in the *Jerſeys*. Knows Cape *May* and Cape *Hinlopen*, which lyes *oppoſite* to Cape *May*, and a Place called the *Whorekills*.—That he was *there* a Whaling about 50 Years ago, and has never been there, at *any other* time.—That they have been reputed to be the Capes of *Delaware*. That they have, *as he has heard*, been ſo reputed, ever ſince the *firſt* Diſcovery of thoſe Parts—and that the *Mouth* or Entrance of *Delaware* Bay lyes between *the ſaid* Capes.

Joſeph Wood, Carpenter, aged 81. [*Lib.* H. *fol.* 4. *Int.* 2. *fol.* 4.] Has lived in *America* about 62 Years—ſoon after his arrival there *he ſettled under the Government* of Sir *Edmund Andros*, who was then Governor of *New York* under the Duke of *York*, on the *Weſt ſide* of *Delaware*, near the Falls, and has generally reſided on the ſame Place ever ſince he ſettled it.

John Teague of *Maryland*, Planter, aged 85. [*Lib.* H. *fol.* 43. *Int.* 2. *fol.* 44.] Was born in *Virginia*, and has lived from his Infancy in *Somerſet* County in *Maryland*. Does not know Cape *May*, but has known the *Whorekills*, *and the Land from* Phenix's Iſland *to* the *Whorekills* Town, *for above* 50 *Years*. *And that the ſaid Land has been called by the Name of* Inlope, *for the ſaid Time*.

Thank him for this, *very kindly*.

William Peterſon, of *New Jerſey*, Farmer, aged 92. [*Lib.* H. *fol.* 7. *Int.* 2. *fol.* 8.] Came into *America* about 82 Years ago [1658] and lived, for 20 Years next following, in *Chriſtiana* Creek, and then removed into the *Jerſeys*, and there has reſided ever ſince.——That, at the time he ſettled at *Chriſtiana*, the *Dutch* were poſſeſs'd of *that Part* of the Country—and were, afterwards, *diſpoſſeſt* by the *Engliſh under Captain* Carr. That, ſome time after that, the Dutch *again took, and poſſeſt it*, till an *Exchange*, as he has heard, was made between the *Engliſh* and *Dutch*, of *Surinam* for that and other Places.—That he knows *Cape May and the Whorekills*, but does not know of *any Cape called* Henlopen. That he has known *Cape* May *and the* Whorekills *about* 70 *Years*, and that *they* have been deemed and taken to make the Entrance or *Mouth* of *Delaware* Bay.

Exceedingly

Exceedingly material in this *Old* Witneſs, he never heard of Cape *Hinlopen* up at the *Whorekills*, tho' he knew it 70 *Years*. This ſhews that it is a *new Name* given to that Upper Cape.

And this is what the Defendant has got, upon his Croſs Examining our *nine* old Witneſſes to *this* Point.

12. The Defendant next examined *three* other Witneſſes, *of his own*, to prove what Settlements were made, and under what *Government*, near and about *Philadelphia*, before the Year 1680.

George Fitzwater, aged 66. [*Lib.* H. *fol.* 85. *Int.* 12. *fol.* 87.] Has heard and believes that *ſeveral* Swediſh *Settlements* were made, *near* the Place where *Philadelphia* ſtands, before the Year 1680, and to the *Northward* of it about *ten Miles*, and to the *Southward* of it, as far as, or near to, *Cheſter*. Says he *believes* ſuch Settlers had Grants from the Governor of *New York*; but can't ſay *who appointed* ſuch Governor.

Benjamin Banckſon, aged 71. [*Lib.* H. *fol.* 83. *Int.* 12. *fol.* 84.] Says that, before the Year 1680, and he *believes before* he was born (which muſt be before 1669) *ſeveral* People were ſettled, *near* to the Place now called *Philadelphia*, both to the *Northward* and *Southward*.—Farther ſays, he has heard from his Mother, and *believes*, that ſhe was born at the Place called *Kingceſs*.

Richard Buffington, aged 85. [*Lib.* H. *fol.* 88. *Int.* 12. *fol.* 90.] Says that, *before* the Year 1680, there were *ſome Settlements* made upon *Delaware*, *from the Falls thereof*, *downwards to the* Whorekill *Town*, by *Engliſh*, *Swedes*, *Dutch* and *Finlanders*. That this Deponent was, about *Sixty* Years ago, [1680] at the ſaid *Whorekill* Town, that is now called *Lewes*; which *then* ſeemed *to be an old Town*, and to have been *a great while ſettled*.—That the People, who were ſo ſettled upon *Delaware*, took their Grant *from a Governor of* New York, *under the Duke of* York.—And that *Courts* were held, at the Town of *Upland*, now called *Cheſter*, *under the Government of the Duke of* York, *and his Governor at* New York.

One would think the Defendant was labouring to prove *our* Caſe for us. And

This ſhews the *Reaſon* why we took, from the Duke of *York*, his *Releaſe* even as to the Province of *Penſilvania* it ſelf; he having a *great Number* of Tenants ſettled there, under his Government of *New York*.

But the Defendant, not being yet ſatisfied, he went on, and croſs-examined *four* of *our* ancient Witneſſes, to the *ſame* Points, and burns his Fingers *again*.

William Peterſon, of *New Jerſey*, aged 92. [*Lib.* H. *fol.* 7. *Int.* 9. *fol.* 11.] Says that, when he came into *America* (which in Anſwer to the ſecond Interrogatory, he ſays was in 1658) there were ſome *Swedes* ſettled, on the Place where *Philadelphia* is built, both *above* and *below* it; *and* that there was a *Fort*, about 5 Miles *below*, on an Iſland in the Mouth of *Skuylkill* River, *originally* built by the *Swedes*, but *then* in the Poſſeſſion of the *Dutch*, who were *likewiſe* poſſeſt of *all the Country thereabouts*.

So here is another *Swediſh* and *Dutch Fort* at *Skuylkill*.

Joſeph Wood, aged 81. [*Lib.* H. *fol.* 4. *Int.* 9. *fol.* 6.] Says that, when he firſt came into *America*, (which in Anſwer to the ſecond Interrogatory, he ſays was in the Year 1678) there were but *three* Inhabitants, *near* about the Place where *Philadelphia* now ſtands; and that one of them was a *Finlander*, who was *ſetled* about a Mile *above* the Place where *Philadelphia* now is; and the other two, *Swedes*, named *William* and *Swan Swanſon*, who were ſettled about a Mile *below* where the ſaid Town now is. That he does not know under *what* Government the ſaid Perſons ſettled *originally*; but heard, that they were at the time of the Deponent's Arrival, under the Government of *New York*.

John Rambo, of *New Jerſey*, aged 79. [*Lib.* H. *fol.* 19. *Int.* 9. *fol.* 23.] Says that there were *ſeveral* Settlements *made*, *before* the Year 1680. near about the Place where *Philadelphia* now is, both to the *Northward* and *Southward* of the ſame, by *Swedes*, *Dutch* and *Engliſh*, under the Authority of the *Swedes* and *Dutch*, *reſpectively*, and *afterwards* under that of the *Engliſh*.

John Muſgrave, aged 73. [*Lib.* H. *fol.* 34. *Int.* 9. *fol.* 38.] Has *heard* that, *before* the Year 1680, there were *many* Settlements made, *by the Swedes* and *Dutch*, under the Government of the *Dutch*, *above*, *below*, or *near*, the Place where now *Philadelphia* ſtands.

13. The Defendant went on, and examined another of our Witneſſes, to prove how the *Whorekills* had been ſettled, and under whom.

John Teague, of *Maryland*, our Witneſs, croſs-examined, aged 85. [*Lib.* H. *fol.* 43. *Int.* 6. *add. fol.* 46.] Has known the *Whorekills* Town, upwards of 50 Years; *does not know* how many Families there were, *in the ſaid Town*, when he was *firſt* acquainted with it, but believes there were but about 5 or 6 Families. That he is *unacquainted* what Number of People were ſettled *in the Country about it*. And that the People, in and about the ſaid *Town*, as he has heard, were, at *his firſt* Knowledge of them, *under the Government of* William Penn *Eſq*;

So the Defendant had enough of this, and examined no more Witneſſes thereto.

14. The Defendant wanted to prove a *Suſquehanna Fort*, ſituated a great way North, up in the Country, about the River *Suſquehanna*; and in order thereto, examined the 7 following Witneſſes, of his own, *viz.*

Paul Poulſon, of *Maryland*, aged 53. [*Lib.* G. *fol.* 124. *Int.* 6. *add. fo.* 124.] Has *heard*, from *ſeveral ancient* People, there *was a Fort*, upon the River *Suſquehanna*, at a place called *Conejocula*, upon the Weſt ſide of the ſaid River, and that he *ſuppoſes* it was built *by* the *Indians*.

Thomas Hitchcock, of *Maryland*, aged 58. [*Lib.* G. *fol* 77. *Int* 6. *add. fol.* 78.] Has *heard* his Father and ſeveral other *ancient* Perſons ſay, that *there was a Fort*, on the River *Suſquehannah*, but *where*, or by *whom* maintained, he knows not.

* *Ann Holy*, of *Maryland*, aged 60. [*Lib.* G. *fol.* 103. *Int.* 6. *add. fol.* 105.] Has *heard* of a *Fort*, at *Suſquehannah*, many Years ago; but by *whom* built, or *where* ſituated, ſhe has *never* heard, *till about a Week ſince from her Huſband*; who told her that it was a *great way* up *Suſquehanna* River, and *above Coneſtogo*; and that ſhe, *many Years ago*, heard one Captain *Hill* loſt his Hand at the ſaid Fort.

George Veaſey, of *Maryland*, aged 61. [*Lib.* G. *fol* 82. *Int.* 6. *add. fol.* 54] *Heard* one Major *Kelton ſay* that he was *one* of the Soldiers that attackt an *Indian Fort* in the Night, and that there were ſeveral Men *killed* in beſieging the ſaid Fort; but *where* the ſaid Fort was ſituated, or the time *when* this happened, knows not; but believes it was *ſome Years before he was born*. [That muſt be *ſome Years before* 1679 then.]

William Price, of *Maryland*, aged 66. [*Lib.* G. *fol.* 59 *Int.* 6. *add fol.* 60.] Has *heard* a general *Rumour* that there was *a* Fort on *Suſquehanna*, built againſt the *Indians*, but *where* ſituated, or by *whom* built, does not remember to have heard.

Patrick Maugher, of *Maryland*, aged 67 [*Lib.* G *fol* 117. *Int.* 6. *add. fol.* 118.] Says that, when he was a Servant, *in Governor* Nicholſon's *Time*, he *heard* there was *a Fort*, that ſtood upon *Suſquehanna*, built by the *Mingo*, or *Suſquehanna Indians*.—That he has *heard* it was attacked and taken by one Colonel *Ninian Bell*, and the *Indians* there were ſlaughtered. That he was *told*, by one *William Cannon*, *now living*, that the ſaid *Indian* Fort ſtood upon a Part of the Plantation whereon he the ſaid *William Cannon* now lives, at *Conejocula*. That he was alſo *told* by one *Philip Roper*, that the ſaid *Roper* was wounded, at the taking of the ſaid Fort, by an *Indian* Arrow, in his Leg, and the Deponent has ſeen the Wound' aforeſaid.—And that the Deponent was *told* that 150 Chriſtians were killed at the taking of the ſaid Fort.—And the Deponent has alſo *heard* that the ſaid Colonel *Beale* went to attack and take the ſaid Fort by the command of the Honourable *Francis Nicholſon*, *then Governor of* Maryland. [This muſt be *ſince* 1694, ſo that the Witneſſes widely *diſagree*.]

Note, It appears, by the *Maryland* Book of Laws, proved in the Cauſe, at Fol. 3. that *Francis Nicholſon* was Governour *in September* 1694; and it appears at Fol. 7. of the ſame Book, that he was the King and Queen's Governour; ſo that, wherever *this* Fort was, if it was *attackt*, it was ſo attackt by Governour *Nicholſon*, as the *Crown's Governour* of *Maryland*, not the Proprietor's Governour; *Maryland* Government being taken into the hands of the Crown before 1694, and continued ſo till 1716, as appears *manifeſtly* from the *Enacting Style* of *every one* of their Laws during that Space of Time.

John Fleaharty, of *Maryland*, aged 102, Has *heard* that the Lord *Baltimore* did *begin*, or *intend*, to build a *Fort* at *Coneſtogo*, or *Suſquehanna*.

We did not offer to examine *any one* of the laſt *ſeven* Witneſſes. Indeed they prove *nothing*. Every Word is *Hearſay*. And if there was a Fort up, at *Conejocula*, yet they ſhould ſhew that *that* was *the Suſquehanna* Fort, and that it was ever known or heard of *in* 1680, in order to apply this to any thing for their purpoſe. Whereas our Evidence deſtroys any thing like that.

But the Defendant went on, and croſs-examined one of *our* Witneſſes, *viz.*

Samuel Preſton, aged 75, one of our Witneſſes, croſs-examined, [*Lib.* H. *fol.* 104. *Int.* 2. *add. fol.* 104.] Remembers when he was a Boy to have *heard*, that the *Suſquehanna* Indians, near the River *Suſquehanna*, as he *believes*, built *a Fort*, which was attackt, and taken, by ſome People from *Maryland*, under the Command of one Colonel *Bell*; but *how far* the ſaid Fort was from the Mouth of the ſaid River, knows not.——Says, that, when he *firſt* heard of the ſaid Fort, he was ſo young that he has but a *faint Remembrance* of a *Rumour* about it. But further ſays, that, above 20 Years ago, he rode over the River *Suſquehannah*, *above Coneſtogo Town*, with *Samuel Carpenter* and *Joſeph Wood*, and, about a Mile from the ſaid River, on the *Weſt* Side thereof, ſaw a Field, with an Apple-Tree in it, and was *told* (by *Joſeph Wood*, he believes) that, according to the *Deſcription* of one *Garland*, an *Indian* Trader, he the ſaid *Wood believed*, *that* was the Place where the *Suſquehannah Indians* forted themſelves in, when they were purſued by Colonel *Bell* from *Maryland*; but ſays, he *believes* the ſaid *Wood knew nothing* more of the Place than by *Hearſay*. [*Note*, *Joſeph Wood* is examined in the Cauſe himſelf, by *both* Sides] Has heard, and *believes*, that the *Suſquehannah Indians* aforeſaid, had killed ſome People, *upon* Patapſco *in* Maryland, [*Note*, That's down *very low* in *Maryland*] and, to ſecure themſelves, *built* the Fort as aforeſaid; and that the before-mentioned Colonel *Bell*, with ſome Men from *Maryland*, *purſued* them, beſieged their ſaid Fort, and obſtructed their receiving any Proviſion into it, by which means the *Indians* were obliged to leave it, and by Force ruſht thro' the ſaid *Bell*'s Men.

The ſame, [*Int.* 21. *add. fol.* 115.] Has never heard of *any other* Fort, on the *Weſt* Side of *Suſquehanna*; and ſays, *the Place*, ſhewn to him by *Joſeph Wood*, is a *little farther North than* the Place, in the printed Plan called *Coneſtogo*.

If the Defendant can poſſib y make any Uſe of this Depoſition, and would *imagine this* to have been a *Suſquehannah* Fort, and to have been a Fort really ſcituated *at Coneſtogo*, upon this *hearſay* Story at 3d or 4th Hand, yet, ſuch Fort appears, by the latter Part of the Depoſition, not to have been any *abiding ſettled* Fort, ſuch as was mentioned in the Orders of Council in 1680, but a *ſudden extempore Fort*, run up, juſt when the *Indians* had (down in the *very Body* of *Maryland*) murdered the Perſons, to defend themſelves againſt Colonel *Bell*, and thoſe who were then purſuing them for that Murder.

You will pleaſe to remember, that, tho' the Orders of Council about 1680, talk of *the Suſquehanna Fort*, yet, Mr. *Penn*'s Charter for *Penſilvania*, contains no ſuch Limitation or Reſtriction *to that Fort*.

And indeed, if you caſt your Eye upon my Lord *Baltimore*'s Plan, or upon the general Plan, you'll ſee what a Sort of a *Peninſula* would be formed, if he was to go up *above Coneſtogo*.

And moſt certainly, the *Suſquehanna Indians*, who were a *great* Tribe, might have *different Forts*, and at *different times*; ſo that no *particular* Fort can be applied to that Order, if the Place of *this* Fort had been proved or fixed.

And, if we believe my Lord *Baltimore*'s own Book and Account of his Province, publiſht in 1635, after he had actually made his *Settlement*, (for he gives an Account therein of his *Landing*, of his *Settlement*, and of the *whole* Country) He tells us, in ſo many plain Words, at Fol. 7. That the *Suſquehannocks*, a warlike People, that inhabit *between* Cheſopeak *Bay* and *Delaware Bay*, had drove the *Indians* of *Yocomaco* higher up into the Country. And *that Scituation* of the *Suſquehannocks* does not at all agree with *Coneſtogo*, which lies up a great way North of every Part of *Maryland*.

So that the *Suſquehannocks* had *no* Fort, *up* ſo many Miles in the Country, nor, had any Chriſtian *ever* been up ſo high as *Coneſtogo*, in *long after* 1680, as our Witneſſes have proved.

15. *Charles Brockden*, the Defendant's own Witneſs, [*Lib.* H. *fol.* 102. *Int.* 17. *fol.* 102.] Has lookt on the Paper Writing, N° 3. (endorſt *William Penn* to *William Standley*, Releaſe for 500 Acres in *Penſilvania*) That the Name, *C. Brockden*, is of his Hand-writing, and he is *Deputy Maſter of the Rolls* for *Penſilvania*, and Recorder of Deeds for the City and County of *Philadelphia*, and has the Keeping of the Records of Deeds in the ſaid City and County; and ſays, the Exhibit is *a true Copy* of what it purports to be a Copy of, taken from the Records in his Cuſtody as Recorder.

So that this laſt Proof will clear all Objections, when we croſs-examined this *ſame* Witneſs to prove ſeveral *other* Records in *his* Office for us.

Benjamin Eaſtburn, our Witneſs croſs-examined, [*Lib*, H. *fol* 117. *Int.* 24. *add. fol.* 122.] Has lookt upon the *ſame* Exhibit, which he calls a Releaſe for 5000 Acres.——And has *heard*, that, *about*, or, *before*, the *firſt* Settlement of the Province of *Penſilvania* under Mr. *Penn*, he made Deeds or Grants, for *very large Quantities of Land*, in the ſaid Province, to *ſeveral Perſons*; but the particular Quantities, does not remember.——Further ſays, he *believes* that *the ſaid Deeds*, or Grants, and *the Conſiderations and Terms* were *much* the *ſame*, as thoſe in the ſaid Exhibit, *except what relates to the* Indians; and *as to that*, he can't charge his Memory Further ſays, that he has *ſeen a Copy* of the *Conceſſions*, or *Conſtitution*, referred to in the ſaid Exhibit; And that it contained *particular Terms*, about Lots in and near *Philadelphia*, and the Settlement of *the ſaid* Lands; alſo, *other things*, which he can't particularly remember.

Charles Brockden, the Defendant's Witneſs, [*Lib.* H. *fol.* 102. *Int.* 1. *add. fol.* 103.] Has lookt upon the PaperWriting, markt N° 4. (endorſt a Copy of the *Frame of Government* of the Province of *Penſilvania*, and *Territories thereunto annext*, or, *William Penn*'s Charter to the People of the ſaid Province and Territories thereunto annext.) And has examined and compared the ſame, with the *Record*, from whence it's *deſcribed*, and that it is a true Copy thereof.

We

We don't know *what* the above Releaſe to *Standley* is, or *what Uſe* is deſigned to be made of it; I ſuppoſe, to ſhew that Mr. *Penn ſold* out ſome few Lands, upon very *cheap* Conſiderations, as ſoon as he had his Grant of *Penſilvania*, in order to tempt Perſons to go over and begin his *firſt* Settlement; for that he moſt certainly did.

16. *Benjamin Eaſtburn*, our Witneſs, croſs-examined, [*Lib.* H. *fol.* 117. *Int.* 19. *add. fol.* 121.] Does not certainly know, but has heard and believes, that the Town of *Newcaſtle* lies very near 20 Miles South of *Philadelphia*.

John Taylor, the Defendant's own Witneſs, [*Lib.* H. *fol.* 95. *Int.* 15. *fol.* 95.] Says, he, by Direction of the Plaintiff *Thomas Penn*, did meaſure how far the Town of *Newcaſtle* lies *South*, of the City of *Philadelphia*, and found it to be about 18 *Engliſh* Statute Miles.

Note, He does not ſay *when* he meaſured this; and the Defendant, in his Interrogatory, *Lib.* H. *fol.* 157. *ſtudiouſly*, and on purpoſe, *avoids* to aſk as to the *Time when?* If he would now fancy that this was *before* the Agreement, Numbers of our Witneſſes prove, that Mr. *Thomas Penn* was *never* in *America*, till *after* the Agreement executed.

And the Defendant's Surveyor *Hynſon Wright*, ſwears he ſurveyed all the lower Counties, to ſee where the Tangent Line would fall.

17. *John Taylor*, the Defendant's own Witneſs, [*Lib.* H. *fol.* 95. *Int.* 16. *fol.* 96.] Has *never* heard that *any other* Line, 12 Miles diſtant from *Newcaſtle*, has been run, by Order of the Plaintiff's Anceſtors, or themſelves, *than one*, to mark *part* of a Circle of 12 Miles *Radius* from the Town of *Newcaſtle*, and *ſeparate* the *County* of *Newcaſtle* from *Cheſter County* in *Penſilvania*. And further ſays, That *ſeveral Parcels* of Land, lying *South* of the Parallel of the moſt *Northern* Part of the ſaid Circle, are held under the Plaintiffs, *as within the Province of* Penſilvania, by Grants made *about* and ſince the Year 1683. Some of which Lands, the Affirmant ſays, he *believes* extends South of the Parallel aforeſaid about 6 or 8 Miles, and are extended *Weſtwards*, from the County of *Newcaſtle*, *to* the River *Suſquehannah*.——Further ſays, he cannot judge what *Quantity* there may be ſettled as aforeſaid, or the *Number of Perſons* they are held by; but *knows* that *ſeveral Townſhips*, and a *great Number* of Inhabitants, are ſo ſettled as aforeſaid.

Samuel Preſton, our Witneſs, but croſs examined, [*Lib.* H. *fol.* 104. *Int.* 12. *add. fol.* 114.] That *all* the Grants made by the Plaintiffs, in *the* 3 *lower Counties*, are to the *Southward* of a Line, drawn Weſt from *Delaware*, 12 Miles *North* of *Newcaſtle* Town.

18. The Defendant examined the following Witneſs, in order to prove an *Iſthmus* ſomewhere.

William Rumſey, of *Maryland*, the Defendant's Witneſs, aged 42, [*Lib.* G. *fol.* 129. *Int.* 1. *add. fol.* 137.] Is well acquainted with *Chriſtiana* Creek, and *ſome* of the Branches thereof.—— And alſo is acquainted with *Elk* River, and *moſt* of the Branches thereof.——Has ſeen the *Mouths* of *both Chriſtiana* Creek and *Elk* River. That *Chriſtiana* Creek runs into, and flows out of, *Delaware* Bay or River; and *Elk* River runs into, and flows out of, *Cheſopeak* Bay.——That *Chriſtiana* Creek runs through Part of *Newcaſtle* County.——And the Branches of *Elk* River run up thro' *Cecil* County, into *Cheſter* County, in the Government of *Penſilvania*.——That the *ſmall* Branches, a *little* below the *Springs*, of the ſaid River and Creek, do *approach*, within a *Quarter of a Mile* of one another,——but *believes* they do not *interlock*.——Is acquainted with, and aſſiſted, as a *Surveyor*, in running that Part of the Eaſt and Weſt Line, lately run by his Majeſty's *Order in Council*, between *Delaware* and *Suſquehanna*; and he *believes* that the *Mouth* of *Chriſtiana* Creek lies *about three Miles* to the *Northward* of the ſaid Eaſt and Weſt Line.

Note, This Man ſtands *ſingle*, and alone by himſelf. They have not been pleaſed to prove *any Map* on their Part; not even of *this Line* which, *this* Man ſays, *he* aſſiſted to run.——Nor is he ſo kind as to tell us *whereabouts* theſe ſame ſmall *Branches* are, which, at the Spring Heads, approach ſo near: All he ſays, is, that the *Mouth*, of *one* of thoſe Rivers, is, as he believes, about 3 Miles *North* of the Eaſt and Weſt Line which he aſſiſted to run. He is miſtaken in *that* Fact, as appears by our Map. But, if *that* was true, what *Conſequence* does it carry? The *Mouth* of a River, eſpecially in *America*, (where their Creeks are larger than any Rivers we are *here* acquainted with) may be 3 Miles *North* of a Place, and the Head, at the firſt Spring, may be 30, or many more Miles *South* of it. He certainly *intends* that the Branches or Firſt Springs are *ſtill* more North, but then he ſhould have *ſaid* it, which he does *not*. And if *ſo*, they are a great way up *within* the *main Continent*; And, for Proof thereof, *this* very Depoſition, and my Lord's own *Anſwer*, will ſerve us, as well alſo as *our* Map. For he tells us, that *Chriſtiana* Creek runs thro' Part of *Newcaſile* County, and my Lord confeſſes, in Folio 13. of his Anſwer, that the three lower Counties (of which all the Witneſſes agree that *Newcaſtle* is the *moſt Northern*) are ſcituate on the Eaſtern Side of the Peninſula, and *alſo*, *above* the Peninſula *within* the *main Land* or Continent.——So that this Perſon would have the *Iſthmus* of the *Peninſula*, (which they mean to uſe *this* Evidence for) lay a vaſt Number of Miles up within the *main Continent*; whereas we, have proved, by *many* Witneſſes, not only the *true* Iſthmus, at the Head of the Peninſula, formed by the *Tide-Waters* approaching ſo near to each other as to flow within 4 Miles, from *Apoquinomy* to *Bohemia*; We have proved, by many *more* Witneſſes, *another* Iſthmus, a little *more North* than our firſt, being 22 Miles aſunder, and formed by the *very Head* of the *great Bay* of *Cheſopeak* and *great River* of *Delaware themſelves*; we have proved, by many Witneſſes, that, *within* the Peninſula *itſelf*, there are *many* Rivers that *interlock*.——And we have, *additionally* proved that, within the *Peninſula* itſelf, there are *ſeveral* Rivers which riſe from *one and the ſame Head*, and run, both ways, *quite acroſs* the Peninſula, from *Cheſopeak* Bay to *Delaware* Bay or River. And we rely on it that the Heads of ſuch *ſmall Branches*, as *this* Witneſs ſpeaks of, where the Run of Water is but like a *Straw*, perchance a great deal leſs, could not be in Contemplation, nor can poſſibly, in the *Nature* of the Thing, form the *Iſthmus* to this Peninſula, which, in all the *other* Parts of it, is ſurrounded by the *vaſt* Atlantick *Ocean*, and by the *great Bays* of *Cheſopeak* and *Delaware*; but the plain natural *Shape* of the *Land*, and the *Approach* of the *flowing Tide-waters*, on each Side, or, at moſt, the Approach of the *Bay* of *Cheſopeak*, and *River* of *Delaware*, to each other, is what forms the *Iſthmus*.

19. The Defendant wanted to know *further*, whether the *Mouth* of *Chriſtiana* Creek or River lay to the *South*, or to the *North*, of the Line lately run by Order of the King in Council; and, in order thereto, croſs-examined 4 of our Witneſſes.

Samuel Hollingſworth, [*Lib.* H. *fol.* 29. *Int.* 7. *fol.* 33.]
John Muſgrave, [*Lib.* H. *fol.* 34. *Int.* 7. *fol.* 37.] . . } Knew nothing at all of the *Line*.

Samuel Preſton, [*Lib.* H. *fol.* 104. *Int.* 7. *fol.* 108.] Was acquainted with the *Mouth* of *Chriſtiana* Creek, but was unacquainted with the *Line*.

Benjamin Eaſtburn, [*Lib.* H. *fol.* 117. *Int.* 7. *fol.* 117.] Is acquainted with *Chriſtiana River*, in *Newcaſtle* County, and alſo with the *Line*, lately run by Order of the King in Council, between the Proprietors of *Maryland* and *Penſilvania*; but the ſaid Line being *begun*, *to the Weſtward of* Newcaſtle *County*, can't ſay whether that Line is to the *Northward*, or *Southward*, of the *Mouth* of the ſaid *Chriſtiana* River.

20. The Defendant examined *Three* of his own Witneſſes, to prove where ſome Places called *Kingſeſs*, *Mill Creek*, *Charges Creek*, or *Weſterhock*, lay; who wonderfully *diſagree* therein.

Mordecai Howel, [*Lib.* H. *fol.* 54. *Int.* 7. *fol.* 57] *Knows* a Place called *Kingſeſs*, and it lies *about a Mile and half*, *or two Miles*, to the Southward of *Philadelphia*.

George Fitzwater, [*Lib.* H. *fol.* 85. *Int.* 7. *fol.* 86.] Has heard that a Piece of Land, *lying about ſix Miles below* Philadelphia, and *on or near* Skuylkill *River*, is called *Kingſeſs*.

Benjamin Banckſon, [*Lib.* H. *fol.* 83. *Int.* 7. *fol.* 84.] *Knows* the Places formerly called *Kingſeſs*, *Mill Creek*, *Charges-Creek*, or *Weſterhock*.——That *Kingſeſs* is about *ſeven or eight Miles below* Philadelphia, and *on a Creek falling into* Skuylkill *River*. That *Mill-Creek* and *Weſterhook* are about the *ſame Diſtance* from *Philadelphia*, and about *a Mile* from *each other*.

So that *Kingſeſs* is either 1 Mile and $\frac{1}{2}$, or 8 Miles, below *Philadelphia*.

And *Millcreek* and *Weſterhock* are about 7 or 8 Miles from *Philadelphia*, *ſome way or other*.

21. *William Price*, of *Maryland*, aged 66, the Defendant's own Witneſs only, [*Lib.* G. *fol.* 59. laſt Interrogatory *fol.* 63.] That he being at *Marcus Hook* on *Delaware*, *about forty Years ago*, [that muſt be 1700,] *ſeveral* People, who *then* lived at *Marcus Hook*, *informed* this Deponent, that there was a *bounded Tree there*, *called my Lord's bounded* Tree; and that *Marcus Hook aforeſaid*, as Deponent has *heard* and *believes*, is about 16 *Miles up the River* Delaware, *above* Newcaſtle *Town*.

The above are the *very Words* of the Witneſs; *what Lord* he, or his Informers, meant, whether they meant Lord *Delaware*, who went up, and gave his Name to, that River *Delaware*, or any other Lord, Does not appear from this *hearſay* Evidence. And it's obſervable, that the Defendant has examined 71 Witneſſes of his own, from the Age of 102 downwards, and croſs-examined 27 of ours; and we have examined 70 Witneſſes of our own, and croſs-examined 10 of his; and yet, not a Syllable of any ſuch *bounded Tree*, is mentioned, by any one but this *ſingle* Man; and that too, in anſwer to the laſt *general* Interrogatory, whether he knew any thing more for the Benefit of the Defendant?

22. The Defendant examined *two* Witneſſes of *his own*, to prove that his Anceſtor in 1682, went up *Delaware* to *Cheſter*, in order to make an *Obſervation*, and how he was received there by the People; and that, in going back, at *Marcus Hook*, &c. he forewarned a few Inhabitants from paying any *more* Quit-Rent to Mr. *Penn*.

James Widdouas, aged 76, the Defendant's own Witneſs only, [*Lib.* H. *fol.* 77. *Int.* 10. *fol.* 77.] Has lived in *Cheſter* County ever ſince 1681. That in 1682, the Lord *Baltimore* came, *out of* Maryland, to the Head of *Apoquimomy*, and from thence, up *Delaware*, as high as a Place then called *Upland*, and now called *Cheſter*, accompanied by ſeveral Gentlemen, who came in two Boats. He has *heard* from Perſons then preſent, and *believes*, that the Lord *Baltimore* then declared that he *intended* to go higher up the River, and had got *Inſtruments* with him, *in order to ſee how far his Dominion reached*, but, that he was *ſtopt* by the *People* who lived thereabouts, who were *Swedes*, *Dutch* and *Engliſh*, who brought out *Guns* and Staves againſt him. Does not know who the People were, that accompanied the Lord *Baltimore*; but has heard and believes that one of them was a Captain of a Man of War.——That he landed at the Houſe of one *Robert Wade*, on the South-weſt Side of *Cheſter* Creek, and to the beſt of Deponent's Remembrance, continued there, for about two or three Days, *with Governour* Markham, *then Governour of* Penſilvania.——That he had been *credibly* informed from Perſons, who *ſaid* they had been preſent at the ſame Time, that the Lord *Baltimore* cauſed an *Inſtrument* to be ſet up, to know *how far his Government* extended? And that it was then agreed, by the Artiſts there preſent, that it reached to the Place where *Philadelphia* now ſtands, which Land, at that time, was poſſeſt by *Swedes* under the Government of *York*, and not then bought of them by *William Penn* Eſq;

The ſame, to the 11th Interrogatory, fol. 81. That when Lord *Baltimore* left *Cheſter* Creek aforeſaid, on his *Return*, he called at the Houſe of *James Brown*, at *Marcus Hook*, a ſmall Town, now called *Chichеſter*, about 4 *Miles below* Cheſter *Creek*, where the Deponent then lived; and deſired this Deponent to tell the ſaid *Brown* (who was then from home) that he lived upon the ſaid Lord *Baltimore*'s Land, and that if he paid any *more* Quit-Rents to Mr. *Penn*, he would be to pay them over again; for it was *his Land*, and he would have *his Right*. And the Deponent was *informed*, that he went to *every* Houſe, *on the Water-ſide*, and in like manner forewarned the Inhabitants not to pay any *more* Quit-Rents to Mr. *Penn*.

The ſame, to the laſt Interrogatory, fol. 83.] Has *heard and believes* that Lord *Baltimore*, about the ſame time, cauſed *a Fort* to be built, upon or near to *Chriſtine Creek*, but this Deponent has *never ſeen* the ſame, nor can give any particular Account thereof.

If this ſingle *Hearſay* Witneſs (to every thing but *James Brown*) amounts to any Proof, why then the Defendant was, *very early*, going by the *Degrees*, and by the Degrees as *then known*, 50 Years after his Charter; and to the *Extent* of that modern diſcovered Degree; and confeſſedly (by the preſent Anſwer) a great deal above *every Part* of the *Peninſula*; and truely, here was an *early*, and a *very high* Claim; but, moſt unfortunately for him, three Years after this, *viz.* in 1685, upon his *own* Petition, the King in Council adjudged, that the three lower Counties were *not* included in his Charter, and were *not* granted to him, and conſequently, this, that he verbally claimed of *James Brown*, was *not his Land*, *nor his Right*.

Richard Buffington, the Defendant's Witneſs only, aged 85. [*Lib.* H. *fol.* 88. *Int.* 10. *fol.* 88.] Has lived above 63 Years on the Weſt Side of *Delaware*, in the Place now called *Cheſter* County.——Near 60 Years ago he *heard*, from creditable Perſons, that the then Lord *Baltimore*, was at a Place called *Marcus Hook*, about 4 Miles *below*, and to the Southward of the Place now called *Cheſter Town*.——He believes the ſaid Lord *Baltimore* came from *Maryland*, and as this Deponent was *informed*, from the ſaid creditable Perſons, forewarned the Inhabitants from paying Quit-Rents to *William Penn* Eſq; and ſaith [ſaid] that the Land they lived on was, or would be, *his*.

In this old *hearſay* Story, there is at leaſt ſome Miſtake in *Time*; for if Governour *Markham*, the Governour of *Penſilvania*, was along with Lord *Baltimore*, he was Kinſman to, and Governour under Mr. *Penn*, and *then Penſilvania* was *not* under the Government of *New York*.——Nay, if there is any Truth in this Story, it muſt have been after Mr. *Penn* had the Lower Counties alſo; for that (as he ſays, he *heard*) my Lord forbid ſome Tenants on the Water-ſide paying any *more* Quit-Rents to Mr. *Penn*.

23. *Mordecai Howell*, aged 78. [*Lib.* H. *fol.* 54. *Int.* 5. *fol.* 54.] Is the Defendant's own Witneſs only, and ſays, that, about 1682, he came up the Bay of *Delaware*, in Company with the Ship in which the Plaintiffs Father was. That he landed, ſome time before Mr. *Penn*, at *Newcaſtle* Town, and was there when he landed at the ſaid Town; but knows not how long he ſtayed there. That ſome time afterwards, Mr. *Penn* went to one *Sanderlin's*, at a Place then called *Upland*, but now *Cheſter*, which is reputed to be about *twenty* Miles above the Town of *Newcaſtle*. That he can't tell how long he ſtayed there, *nor knows* for what end or purpoſe he went there, but has *heard* it *talkt*, among the People, that it was with Intent to have built a City *there*, but that he and *Sanderlin* could not agree.

It is undoubtedly true, that Mr. *Penn*, when he landed, found ſo many ancient Settlers, under *Swediſh* and *Dutch* Titles, *and ſo many more, under* more modern Grants from the Duke of *York*, that he was at a loſs to find a *Space*, in any proper Scituation, fit for ſo large a City as he then intended, and afterwards founded, *free* from ſome private Rights and Poſſeſſions; and at length having pitched upon a proper Scite for it, between two navigable Rivers, he was forced to buy it from the private Proprietors, in order to form his regular City *Philadelphia*, which is an oblong Square, of two Miles, by one Mile.

* *Zeb. Hollingſworth*, of *Maryland*, aged 43. [*Lib.* G. *fol.* 64. *Int.* 10. *add. fol.* 70.] Has ſeveral times *heard* both his Father and Mother declare that the Plaintiffs Father had an *Obſervation* taken, in order to fix a Place to build *Philadelphia* on, by an Artiſt or Mathematician, at the Houſe of *Robert Wade*, at the Mouth of *Cheſter Creek*, on *Delaware*. That the ſaid Artiſt then told Mr. *Penn* that he was, *there*, within the *Baltimore* Grant. That ſome warm Words paſt between Mr. *Penn* and the Artiſt, which the Deponent has *heard* was, becauſe Mr. *Penn* believed the ſaid Artiſt was *miſtaken* in his Obſervation. That this Deponent's Father ſometimes followed the Buſineſs of a *Blackſmith*, ſometimes building *Houſes*, and at other times *ſurveying Lands* in both Provinces of *Maryland* and *Penſilvania*.

This Witneſs has *before* ſworn he has a Diſpute under a *Maryland* Right, with a *Penſilvanian* under a *Penſilvania* Right —— And beſides, this is but a *Hearſay* from his Father and Mother, neither of which does he pretend is dead, and we have never croſs-examined this Man.

Andrew Barry of *Maryland*, aged 40. [*Lib.* G. *fol.* 72. *Int.* 10. *addit. fol.* 73.] That he was deſired, *as a Magiſtrate* of *Cecil* County in *Maryland*, to *take the Affirmation* of one *Lydia Hollingſworth*, *now deceaſed*. He accordingly *did adminiſter an Affirmation*, whereon ſhe declared to this Deponent, that, between 50 and 60 Years before *that* Time, ſhe was at the Houſe of one *Robert Wade*, at the Mouth of *Cheſter* River, on *Delaware* River; That ſhe was there when the Plaintiffs Father was there with an Artiſt, taking an *Obſervation*. That the ſaid Artiſt then told the ſaid *Penn*, that he was *within* the Lord *Baltimore*'s Grant. And the ſaid *Lydia* further declared, that the ſaid Houſe, where the ſaid *Wade* then dwelt, was reputed to be in *Maryland*. And that, upon the ſaid Artiſt telling the ſaid *Penn* as aforeſaid, they then went, as ſhe *ſuppoſed*, further up the River *Delaware*, and fixt the Town at the Place where the City of *Philadelphia* is now built. The ſaid *Penn*, as *ſhe ſuppoſed*, if the Artiſt had not informed him as aforeſaid, intended to have built a Town on, or near to, the ſaid *Cheſter* River.

Surely this Man did not adminiſter an Affirmation, and take the Woman's Declaration *viva voce*. He omits ſpecifying *how* ſhe declared, but it muſt be preſumed to be *in Writing*; and if ſo, the thing *itſelf* ought to appear, and not *his Account* of it only. I ſuppoſe there is ſomething in the Affirmation itſelf, that would hurt them, ſo it is concealed.

And it's certain the Artiſt, as he is called, muſt have been *miſtaken*, to ſay that *Cheſter* Creek was within *Maryland*, for *Cheſter* Creek is above the *Northermoſt* Part of the Lower Counties, conſequently, as Part of theſe Lower Counties is up in the *Main Continent*, what is *above them* muſt be *further up* in the *Main Continent*, and could be no Part of a *Peninſula*.

But his Miſtake was, that he was meaſuring the *Degree* in 1682 (not as known in 1632) and was going to the *Extent* of that Degree too.

24. * *Anne Holy* of *Maryland*, the Defendant's own Witneſs, aged 60. [*Lib.* G. *fol.* 103. *Int.* 8. *addit. fol.* 106.] When ſhe was a Girl, Lord *Baltimore* lodged at her Father's Houſe. And ſhe heard that, about that time, an *Eaſt* and *Weſt Line* was run, by the *ſaid Lord Baltimore* and others, from the Mouth of *Octorara*, to *Naaman*'s Creek; and that there was a *Line of markt Trees lately* to be ſeen, as ſhe has heard. And further declares, that the *Penſilvanians* have *encroacht* upon *her Husband*, and taken Lands from him, that were patented to her Husband under *Maryland* Rights, and that the laſt *Line*, run by Order of the King in Council between the two Provinces, run through her Husband's Plantation.

This Woman ſwears herſelf *intereſted*, and tho' the Defendant began to examine her, to prove this *old Line* run in 1683, yet, upon ſecond Thoughts, he dropt making any *further* Proof thereof, on his Part, ſave what fell *occaſionally* from his Witneſſes.

But he made us *ample Amends*, for he was reſolved he would *prove* the little Loghouſe, which he ſays was built in 1683.

25. And to *that* purpoſe has examined the 14 following of his own Witneſſes, and croſs-examined two of ours, *viz.*

Hugh Terry of *Maryland*, Defendant's own Witneſs only, born in 1699. [*Lib.* G. *fol.* 39. *Int.* 5. *addit. fol.* 40.] Has *heard* his Father *Thomas Terry* ſay that there was a Fort at *Chriſtiana*, that was a *Charge* to the People of *Maryland*; that it was built by one *Talbot*, and that one *Murray* was Captain of the Fort, and that Proviſions were preſt, to ſupport the People in the Fort, from every Man's Houſe, *in the Neighbourhood of the Place where Bohemia Ferry in Cecil County is now kept*, except his ſaid Father's.

Note well. Allowing this Account to be very true, the Fort carried no Subjection *beyond* its own meer Contents of fourteen Feet by ten Feet, for they went down into *Maryland*, to preſs Proviſion for it, *into Cecil County*, and did not pretend to raiſe or preſs Proviſions for the Fort from the *Penſilvania* Tenants in *Newcaſtle* County; although ſeveral ſuch were then ſettled *between* the Fort and *Maryland*.

* *Zeb. Hollingſworth* of *Maryland*, Defendant's own Witneſs only, born in 1697. [*Lib.* G. *fol.* 64. *Laſt Interrog. fol.* 72.] Adds, that he has *heard* there was a Fort kept at *Chriſtiana* Bridge, in Colonel *Talbot*'s Time, that one *Kearſey* ſupplied the ſaid Fort with Proviſions, *upon Colonel Talbot's Account*, but when *Talbot* left the Province for killing of one *Rouſeby*, there being *nobody to pay Kearſey* for finding Proviſions, the ſaid Fort *broke up*. But this is an *intereſted* Witneſs, as he himſelf ſwears.

* *Anne Holy* of *Maryland*, Defendant's own Witneſs only, born in 1680. [*Lib.* G. *fol.* 103. *Int.* 5. *addit. fol.* 104.] Has heard there was a Fort kept at *Chriſtiana* Creek, near where *Chriſtiana* Bridge now is; but on what Side, by whom built, or at *whoſe* Expence, knows not; but believes it was maintained by the Government of *Maryland*, becauſe the People, in the Fort, uſed to have Proviſions from her Father's Houſe in *Maryland*. That the ſaid Fort was kept up *ſome time*, but how long can't tell; but it was, *until the Killing of one Rouſeby by Colonel Talbot*. That the ſaid Fort lay near *Weſt* from *Newcaſtle* Town, and diſtant about *five* Miles thence, as ſhe believes.

Aaron Latham of *Maryland*, the Defendant's own Witneſs only, born in 1680. [*Lib.* G. *fol.* 76. *Int.* 5. *addit. fol.* 76.] *Knew* a Fort that was built near the Place where *Chriſtiana* Bridge is, and that it was called *Talbot's Fort*, and it ſtood on the *Weſt* ſide of *Chriſtiana* Creek, and heard it was built by one Colonel *Talbot*, and was *told* by the Men in the ſaid Fort, that they were maintained *at the Expence of the ſaid Colonel Talbot*. That it was about 50 Years ago [1690] that he ſaw the ſaid Fort, and that he remembers it was kept up about *two or three* Years. That *Newcaſtle* Town lay E. S. E. from the ſaid Fort. That the ſaid Fort was about 5 Miles diſtant from *Newcaſtle* Town.

Thomas Price of *Maryland*, the Defendant's own Witneſs only, born in 1676. [*Lib.* G. *fol.* 86. *Int.* 5. *addit. fol.* 89.] That, about 50 Years ago [1690] he *ſaw* a little *Log-Fort*, at the foot of *Chriſtiana* Bridge, and *ſome* Men in it. That the ſaid Fort was kept by Colonel *Talbot*, as he believes, to keep the People of *Newcaſtle* off. That the ſaid Fort was on the Weſtward ſide of *Chriſtiana* Bridge, and kept up *five* or *ſix* Years, and lay, as he believes, about W. N. Weſt from *Newcaſtle* Town, and diſtant from *Newcaſtle* about *ſix or ſeven* Miles.

Robert Money of *Maryland*, the Defendant's own Witneſs only, born in 1675. [*Lib.* G. *fol.* 36. *Int.* 5. *addit. fol.* 37.] When he was a *Boy*, he has heard ſeveral People *ſpeak* of a Fort at *Chriſtiana* that was maintained at the Expence of Lord *Baltimore*, but for what time can't exactly charge his Memory, but believes it to be about *four* Years. And that it was kept up about 57 Years ago [1683—So this Witneſs *corrects the Time* of the others, who were miſtaken] Says his *Information* was from ſeveral Perſons who he underſtood to be Soldiers in ſaid Fort, the Name after which was *Murrey*.

Simon Johnſon of *Maryland*, the Defendant's own Witneſs only, born in 1674. [*Lib.* G. *fol.* 115. *Int.* 5. *addit. fol.* 115.] *Heard* there was a Fort on the *Weſt* ſide of *Chriſtiana* Creek, in Colonel *Talbot*'s Time. And that Colonel *Talbot uſed to buy* Corn and Beef in *Maryland*, and ſent it to the ſaid Fort, this Deponent having ſeen ſome of the Proviſions bought. He has *heard the ſaid Fort was built by* Colonel *Talbot*. That, *after Colonel Talbot left the Province, the Fort broke up*, for *want of ſome Perſon to ſupply the Men* there with Proviſions. That the Place where he has been *informed* the ſaid Fort ſtood, lay *Weſtward* from *Newcaſtle*, diſtant about five Miles.

William Price of *Maryland*, the Defendant's own Witneſs only, born in 1674. [*Lib.* G. *fol.* 59. *Int.* 5. *addit. fol.* 59.] Has been at a Place near *Chriſtiana* Bridge, where, he was *informed* that a Fort ſtood. That his Father *informed* him he helpt to build it. That it ſtood on the Northweſt Side of the ſaid Creek.——His Father *informed* him that Colonel *Talbot* went, with the People, to build ſaid Fort. The Place where the ſaid Fort ſtood was between 5 and 6 Miles diſtant, to the Northweſtward of the Town of *Newcaſtle*, and that the ſaid Fort was kept up, for ſome Years, as he was *alſo informed* by his Father, at the Expence of the Province of *Maryland*.

Samuel Hollingſworth, our Witneſs, but croſs-examined, born in 1673. [*Lib.* H. *fol.* 29. *Int.* 4. *fol.* 32.] Has *formerly heard* that there was a *ſmall* Fort, called the *Maryland* Fort, about *five* Miles *Weſterly* from *Newcaſtle*, on the Northweſt ſide of *Chriſtiana* Creek, and near a Bridge over the ſaid Creek, by Order of the Lord *Baltimore*, and that the ſaid Fort was kept and maintained, *ſome* Years, at the Expence of Lord *Baltimore*, or the People of *Maryland*.

John Ryland of *Maryland*, the Defendant's own Witneſs only, born in 1672. [*Lib.* G, *fol.* 46. *Int.* 5. *addit. fol.* 47.] He has *heard*, above 50 Years ago [that muſt be before 1690] a Fort was kept, upwards, commanded by one Captain *Murray*, and that Colonel *Talbot* was concerned in the ſaid Fort. In what Place it ſtood, knows not. Has been informed they preſt Proviſions for the ſaid Fort *in the Neighbourhood of Bohemia Ferry*; How long it was maintained, or at whoſe Expence, cannot tell.

Walter Scott of *Maryland*, the Defendant's own Witneſs only, born in 1671. [*Lib.* G. *fol.* 52. *Int.* 5. *addit. fol.* 52.] That above 50 Years ago [before 1690] he lived with one *Caſparus Herman*. That being ſent on an Errand, to *Bread* and *Cheeſe Iſland* on *Chriſtiana* Creek, going over *Chriſtiana* Bridge, he ſaw a *ſmall* ſtrong *Loghouſe*, which was *called* the Fort. That there was ſeveral *Port-holes* in the ſaid Houſe. That it ſtood a little way off the ſaid Bridge. That one *Murray* was *ſaid* to command it. And this Deponent ſaw *ſome* Soldiers that belonged to the ſaid Fort. That he knew one *Thomas Mansfield*, a Preſs-Maſter for *Cecil* County, to preſs Proviſions in *Cecil* County *aforeſaid*, for the Men in the ſaid Fort. That the ſaid Fort was kept up, until Colonel *Talbot* abſconded from his uſual Abode for killing one *Rousby*. But what Length of Time it was kept up, can't remember. That the ſaid Fort ſtood about 6 Miles W. N. Weſt diſtant from *Newcaſtle* Town.

Otho Othoſon of *Maryland*, the Defendant's own Witneſs only, born in 1668. [*Lib.* G. *fol.* 28. *Int.* 5. *addit. fol.* 29.] Has known a Fort, between the *Head* of *Chriſtiana* Creek and *White-Clay Creek*, in the County of *Newcaſtle*. And was *once* at the ſaid Fort. And it ſtood on the North-ſide of *Chriſtiana* aforeſaid. Who built it, he knows not, or at whoſe Expence, or how long it was maintained, but it was called Colonel *Talbot*'s Fort. And that the ſaid Fort was between 4 and 5 Miles diſtant Northward, or Northweſt, from *Newcaſtle* Town, as he believes.

Eliz. Mercer of *Maryland*, the Defendant's own Witneſs only, born in 1667. [*Lib.* G. *fol.* 100. *Int.* 5. *addit. fol.* 100.] She *knew* a *little* Loghouſe, near *Chriſtiana* Creek, which was *called* the *Maryland* Fort—— Believes it was on Weſt-ſide of *Chriſtiana* Creek; That it was built by Colonel *Talbot*'s Men, *above* 50 Years ago. It was kept up, *ſome Years*, by the ſaid Colonel *Talbot*, but can't ſay how long. Does not know how the Fort lay from *Newcaſtle*. That her Father's Houſe was computed to be twelve Miles diſtant from *Newcaſtle*. That the Fort *lay two* Miles nearer *Newcaſtle* than her Father's Houſe. That when the People went over the Bridge from her Father's Houſe, they reckoned themſelves in *Newcaſtle* County; That the other Side, over the Bridge, next her Father's Houſe, they reckoned in *Penſilvania*; That, about the Year 1679, ſhe came into the Country, and Courts were then held at *Newcaſtle* Town, in the King's Name.

John Muſgrave, our Witneſs, but croſs-examined, born in 1667. [*Lib.* H. *fol.* 34. *Int.* 4. *fol.* 36.] That he *knew* a *ſmall* Log-Fort, that was built, *after the running Colonel Talbot*'s Line, about four or five Miles to the North-Weſterly of *Newcaſtle*, and on the North-Weſt ſide of *Chriſtiana* Creek, by the Direction of Lord *Baltimore*, or Colonel *Talbot*, as the Affirmant has *heard*, and was maintained, *for ſome ſhort time*, by People from *Maryland*.

Mordecai Howell, the Defendant's own Witneſs only, born in 1662. [*Lib.* H. *fol.* 54. *Int.* 6. *fol.* 56.] Says that ſome time in the Year 1683 he was going after a Runaway Servant, and *was* then *ſhewed* a Fort, made with *Sapling* Poles, as he believes, about 14 *Feet* ſquare, and *told*, that it was built and maintained by Order of Lord *Baltimore*. That he ſaw *ſome* Men, and *ſome* Fire-Arms, in the ſame, but knows not the Number.

James Morgan of *Maryland*, the Defendant's own Witneſs only, born in 1660. [*Lib.* G. *fol.* 91. *Int.* 5. *addit. fol.* 92.] Has *heard* there was a Fort kept at *Chriſtiana*, commanded by one *Philip Murray*, and that he inquired of ſome *Iriſhmen* who kept the ſaid Fort, what they kept the ſaid Fort for? He was told by them, it was to keep Poſſeſſion for my Lord. That he has been *told* that 7000 Pound of Tobacco was levied in *Cecil County*, for maintaining the People of the ſame Fort, but how long it was maintained, knows not, but that it was dropt on Colonel *Talbot*'s killing one *Rousby*.

How ſome Perſons, for Oppoſition ſake, perſue Matters to their own hurt! And what do all theſe laſt *Sixteen* Witneſſes amount to, at the very utmoſt?

Why, there was a Fort, that was built by Colonel *Talbot*, or Lord *Baltimore*, or ſomebody.

It was maintained, for ſome *ſhort* time, either by Colonel *Talbot* himſelf, or by Lord *Baltimore*, or by the People of *Maryland*; and then it was dropt, when Colonel *Talbot* killed *Rousby*. For there was nobody then to pay the Expence of it.

And it was ſituated juſt by *Chriſtiana Bridge*, which, by the way, is juſt where the *Swediſh* and *Dutch* Fort was.

And now, what Pity it is, that we, by our *great* Knowledge, ſhould have impoſed on my Lord, in the preſent Agreement, and that he has not, by this preſent Agreement, quite up to this Fort of his? Or rather, what Pity is it, that he was not *preciſely* limited to this Fort?

In which laſt Caſe, we ſhould have ſaved a Tract of Land, 4 Miles broad, by *five whole Degrees* in Length, which we have now granted to him, North of, and *above* that identical Spot of his own former Claims or Encroachments.

Which *very Tract* contains our antient Town of *Nottingham*, the richeſt and moſt fertile Spot in our whole Province, but which we have now given up, to buy our Peace (as we vainly imagined) after having ſuffered much more, from theſe ruinous expenſive Conteſts, than Strangers can eaſily believe or be made ſenſible of.

Yet he inſiſts, very calmly, that in this Grant there is *no Conſideration* moving from us, we take all the Benefit, and he takes all the Loſs, that is, if *he* is to be believed.

26. The next thing my Lord *Baltimore* attempted to prove was, that he had exerciſed the *Government*, and he had received the *Quit-Rents*, in the Lower Counties. To which Purpoſe he examined the *three* following Witneſſes of his own, *viz.*

Colonel *John Ward* of *Maryland*, the Defendant's own Witneſs only, aged 67. [*Lib.* G. *fol.* 31. *Int.* 5. *fol.* 32.] Has *never heard* that Lord *Baltimore*, or *any* of his Anceſtors, exerciſed *any* Power or Authority of Government in the 3 lower Counties; and has *heard* that the Plaintiffs and their Anceſtors, *have exerciſed* the Powers of Government in the ſaid Counties—— Knows *not nor has heard*, that the Inhabitants of the ſaid 3 lower Counties have *ever* paid *any* Quit-Rent to the Lord *Baltimore*, or his Anceſtors; and has heard ſeveral of the Inhabitants of the ſaid three lower Counties *ſay* that they had never paid *any* Quit-Rent to the Plaintiffs or their Anceſtors——He has never *heard* of any *other* or more Forts, that

was

was erected and kept in the 3 lower Counties, or on the Borders thereof, *but one*, which he has *heard* was kept on the *North-ſide* of *Chriſtiana* Creek, or *thereabouts*, which he believes is in the County of *Newcaſtle*, by the Anceſtors of the Lord *Baltimore*, about *Colonel Talbot*'s *Time*, and that one *Drake* preſt Men to aſſiſt thoſe that were in the ſaid Fort, upon a Rumor the Fort would be attackt by the *Penſilvanians*——And has heard *Edward Larrimore*, *Chriſtopher Mouns*, *John Wheeler*, and ſeveral others of the then antient Settlers, declare they *had* ſeen the ſaid Fort.

Charles Hilliard Eſq; the Defendant's own Witneſs only, aged 63. [*Lib.* G. *fol.* 158. *Int.* 5. *fol.* 163.] Neither *knows*, nor has *heard*, of *any* Acts of Government done, or exerciſed, by Lord *Baltimore*, or his Anceſtors, in the three Lower Counties, but that *all* Acts of Goverment, for many Years laſt paſt, have been exerciſed by the Proprietors of *Penſilvania* in the ſaid three Lower Counties.—Never knew of *any* Quit-Rents paid to, *or demanded by*, Lord *Baltimore*, or his Anceſtors in the ſaid three Lower Counties, *but* he *himſelf*, and *divers others*, *have paid* Quit-Rents to the Proprietors of *Penſilvania* for Land in the three Lower Counties aforeſaid.—He knew a Fort, in *Newcaſtle Town*, held under the Government of the *Plaintiff's Anceſtors*, but knows not of any *other* Fort in, or bordering on, the ſaid three Lower Counties.—That the ſaid Fort at *Newcaſtle* Town aforeſaid, was maintained and kept up at the *Expence* of the Inhabitants *and the Proprietors* of *Penſilvania*, as he has heard from ſeveral of the Members of the Aſſembly of the ſaid three Lower Counties at *Newcaſtle*, but how long the ſaid Fort was maintained, he knows not.

John Holliday, the Defendant's own Witneſs only, aged 39. [*Lib.* G. *fol.* 170. *Int.* 5. *fol.* 173.] Has never *known*, or *heard of*, *any* Acts or Powers of Government exerciſed in the three Lower Countys, *but* by and under the Perſon who was Governor of the ſaid three Counties, and at the *ſame time Governor of* Penſilvania.—Knows not of *any* Quit-Rents being paid to the Proprietor of *Maryland*, but has *frequently* heard that *ſeveral* of *his Neighbours have paid* Quit-Rents to the Proprietors of *Penſilvania*, for Lands held in the upper Part of *Kent* County aforeſaid.——Has heard that the Lord *Baltimore* had a *Fort* at *Chriſtiana*, in *Newcaſtle County*, and a *ſmall* Number of Men, and that the ſaid Fort was kept up, for *ſome* time, by Lord *Baltimore*.

Note. The *three* laſt are the Defendant's *own* Witneſſes, whom we have not examined to any one ſingle Word. And they did not pleaſe him: So he varyed the Interrogatory, by an additional one, dropping the *Government* and the *Quit-Rents*, and confining it to the *Fort only*, an account whereof you have had before.

You'll pleaſe to obſerve that the Defendant has ſworn that his Anceſtors all along exerciſed *all Acts* of Proprietorſhip and Government in the three Lower Countys. Whereas he is, thus *flatly*, *contradicted* by his *own* foregoing Witneſſes which he examined *in Chief* on that Head, by *many more* of his own Witneſſes who ſpeak of that Matter *Occaſionally*, by the whole String of *our* Evidence alſo, (and by his Witneſs Mr. *Sharpe*, the Clerk of the Council, and by all the Records of the Council Office, from the Year 1702, to this Time.)

But this is a Trifle (with him.)

27. He had alſo ſworn *four* other Facts, in his Anſwer, 1. That the Province of *Penſilvania is* contiguous to *New Jerſey*. 2. That it *is not* contiguous to the Lower Countys. 3. That *Penſilvania* is on *one* ſide, and the Lower Counties on the *other* ſide, of the Bay of *Delaware*. 4. That *Penſilvania* lay on the Weſt ſide, and the three Lower Countys on the Eaſt ſide of the ſaid Bay and River of *Delaware*; and he has examined divers Witneſſes to prove theſe Facts; but they being moſt notoriouſly falſe and untrue, not only the *following* Witneſſes, examined by himſelf in chief thereto, but all the Witneſſes that are examined in the Cauſe, *falſify* his Anſwer, in the moſt *direct* manner that is poſſible.

Charles Hilliard, the Defendant's own Witneſs only, aged 63. [*Lib.* G. *fol.* 158. *Int.* 2. *fol.* 159.] Says that the three Lower Counties are bounded to the *North* by the Province of *Penſilvania*, on the *Eaſt* on *Delaware* and the Ocean, and *Southward* and *Weſtward* by the Province of *Maryland*.——That the *Jerſeys* lie on the *Eaſt* ſide of *Delaware*, and the Province of *Penſilvania*, and the three Lower Counties on the *Weſt* ſide of *Delaware*.

John Holliday, the Defendant's own Witneſs only, aged 39. [*Lib.* G. *fol.* 170. *Int.* 2. *fol.* 170.] Is acquainted with the Countys of *Newcaſtle* and *Kent*, which are bounded on the *North* by *Penſilvania*, on the *Eaſt* by *Delaware*, *Weſt* by *Maryland*, *South* by *Suſſex* County, with which he is but little acqainted, having been there but once.——That the *Jerſeys* lye on the *Eaſt* ſide of the Bay and River *Delaware*.——And the Province of *Penſilvania*, *and* the Counties aforeſaid *are divided from* New Jerſey, by *Delaware*.

Thomas Hynſon Wright of *Maryland*, the Defendant's own Witneſs only, aged 52. [*Lib.* G. *fol.* 251. *Int.* 2. *fol.* 251.] Has known the three lower Counties upwards of *twenty* Years, has reſided near to them, and been *frequently* in them. And has underſtood, by the Inhabitants of thoſe Countys, that they were bounded on the *South* by *Indian River*, and on the Eaſt, partly by the *Ocean* and *Delaware* Bay, and on the North, ſome ſmall Diſtance to the Northward of *Newcaſtle*, and on the Weſt, as far as the running Water of the Branches that drain into *Delaware*.—That *New Jerſey* is *not contiguous* to *Maryland* and *Penſilvania*, or either of the three Lower Counties, but is *divided* from the ſame by the *Bay* and *River* of *Delaware*.——Knows the Bay and River of *Delaware*, and underſtands from the Inhabitants of the ſaid three Lower Counties, that they are bounded, on the *Eaſt*, by the Ocean, from *Indian River* to the Mouth of *Delaware* Bay; and from thence, to the Northward of *Newcaſtle*, by *Delaware* Bay or River, ſtill on the *Eaſt*.—That he always underſtood that the Province of *Maryland* lies on the *Weſt ſide* of the Ocean and the ſaid Bay or River *Delaware*; and that the Province of *Penſilvania* lies to the Northward of *Maryland*, and on the *Weſt* ſide of the ſaid River *Delaware*; and the ſaid Province of Eaſt and Weſt *Jerſeys* lie on the *Eaſt* ſide of the ſaid Bay or River of *Delaware*.

Note. This Witneſs fortifies *our* Cape, and corroborates our Evidence about the *South Bounds* of *Suſſex*, for he has known it but from the Year 1720, or thereabouts, and where does he place our South Bounds? why at *Indian River*, greatly *below* my Lord's new Cape *Hinlopen*, almoſt as low as our true *old* Cape *Hinlopen*; and our Witneſſes agree, tho' our Bounds *were* to the old Cape *Hinlopen*, which is *Fenicks* Iſland, on the Branch of *Aſſawaman*, yet, about 1696, upon one *Peter Waples* running away from *Maryland* to *Indian River* for Debt, the Sheriff of *Maryland*, then purſued him thither, and that, ſince *that* Time, (which was long before this Witneſs's Knowledge) my Lord *by force*, made *the few* People ſubmit, *up* as high as *to* Indian River.

This Obſervation, kept in mind, will be of *great* Uſe, in many *other* Places.

28. As the Defendant has ſo ſtrongly ſworn to *all Acts* of Ownerſhip and Proprietorſhip, (as well as of Government) having been exerciſed by himſelf and his Anceſtors, within the three Lower Counties, ſo he ſtruggled *hard* to prove a *very few* Inſtances of *Settlements of Lands* under *Maryland* Rights, every one of which turns out againſt him.

For Method ſake we will begin firſt with the County of *Newcaſtle*.

And firſt of theſe, as to a particular Tract ſayed to have been ſurveyed for one *Henry Ward*.

* *Benjamin Pierce*, of *Maryland*, the Defendant's Witneſs only, aged 28. [*Lib* G. *fol.* 94. *Int.* 21. *fol.* 95.] Has dwelt above 20 Years in *Cecil* County. Says that he, who *married with the Daughter and Heir at Law* to one *Henry Ward*, amongſt his Papers, found a *Depoſition*, dated in *March* 1724, *made by the ſaid* Henry Ward, the purport of which Depoſition was, that one *Evan James* had taken a Leaſe, of the ſaid *Ward*, of certain Lands *bordering* upon *Newcaſtle* County, *claimed* by the ſaid *Ward* under *Maryland* Rights; that, on complaint of ſome *Welſh People*, to a Magiſtrate of *Newcaſtle* County, the ſaid *James* was taken up, on a Warrant iſſued by ſaid Magiſtrate, and was obliged, before the ſaid Magiſtrate, to deny that he had taken any Leaſe from the ſaid *Ward*, otherwiſe he had been ſent to *Newcaſtle* Priſon; and the ſaid *Evan James* afterwards, claimed the ſaid Land under a Right from the Proprietors of *Penſilvania*.——And that, by *another Depoſition*, *made by the ſaid* Ward, found alſo among the ſaid *Ward*'s Papers, it appears *to this Deponent*, that one *Alex. Lewis*, alſo, had taken a Leaſe of Land, from the ſaid *Ward*, that a like Complaint was made by the *Welſh People*, and the ſaid *Lewis* was obliged, in ſome manner, to deny his taking any ſuch Leaſe, and, ſince, claimed the ſaid Land under a right from the *Penſilvania* Proprietors.—And well knows that one *Evan Jenkins*, about 5 Years ſince, has, under a *Penſilvania* Right, entered and *ſeated on* ſome of the ſaid Tract, *now claimed by this Deponent in Right of his ſaid Wife*.

* *Idem* to the 11th *add. Int. fol.* 98. Knows of no *other* Lands *layd out*, or *poſſeſt*, under *Maryland* Rights, in the Lower Counties, the Quit-Rents on thoſe beſorementioned, due to the Year 1712, being paid to the Receiver of Lord *Baltimore*, *as by Receipts* under old Mr. *Heath*'s Hand, a Receiver for the ſaid Lord, *appears*.

This Witneſs ſwears himſelf *intereſted*, ſpeaks entirely out of Depoſitions which are not produced, and would not be Evidence if they were, being *Ward*'s *own* Depoſitions to prove his *own* Right, and from *Receipts* which are not produced.

* *Richard Thompſon*, of *Maryland*, the Defendant's own Witneſs only, aged 55. [*Lib.* G. *Fol.* 109. *Int.* 21. *Fol.* 110.] Has dwelt 20 Years in *Cecil* County. Knows of no Incroachments made by the *Marylanders* on the Inhabitants of *Penſilvania*, or their Land, bordering on, or in the Lower Counties. But ſays that, ſince 1723, and above 6 Years ago, *David Lewis*, and ſeveral other Perſons, have, under Colour of *Penſilvania* Rights, taken Poſſeſſion of about 400 Acres, (Part of two Tracts containing 2500) *granted above* 60 *Years ago*, as he has reaſon to believe, *having ſeen the Grant* under *Maryland* Rights, to one *Henry Ward*. And that the ſaid *Lewis* and others hold the ſaid Lands, as in *Newcaſtle* County. That the Deponent, at the requeſt of *Henry Ward*, Son of the ſaid *Henry*, went to aſſiſt him, in making a *Re-ſurvey* of the ſaid Land, but was, by the *Penſilvanians* prevented.——Says that the People of *Newcaſtle* County, above 16 Years ago, attempted to take ſome of the Lands, whereon the Deponent now lives, *from him*, by running Lines thro' *his* Plantation, but he, by Threats, has held his Poſſeſſion.—Says there *formerly* was a *main Road*, through Part of the ſaid Land of *Henry Ward*, cleared and kept up, by the People of *Cecil* County; but that the Inhabitants of *Newcaſtle* County, now, prevent *their* keeping it up, and clear it *themſelves*.

This laſt Witneſs ſwears he has diſputed Lands. And we are to have a great deal more about this *Henry Ward*, but hitherto, one *believes* the Land had been *granted* to *Ward*, and another talks as if he had *claimed* it; but *no pretence* that *Ward*, or any in his Right, had ever *ſettled* upon it, or made any *Improvement*, and we have proved how *Maryland* Grants are made.

Laurence Gailſhiott, of *Maryland*, the Defendant's own Witneſs only, aged 60. [*Lib.* G. *fol.* 49. *Int.* 21. *fol.* 49.] Has dwelt 20 Years in the Borders of *Cecil* County.——Knows that *two Settlements* have been made, within 10 or 12 Years paſt, by *Penſilvanians*, on Land for 40 Years *ſuppoſed* to be within the Limits of *Maryland*, one about a Mile to the Southward, and another about a Mile to the Northward, of the Place where the Deponent lives. The laſt of which was formerly *ſurveyed*, and *patented*, for *Henry Ward*, under a *Maryland* Right. That this Deponent and one *Richard Thompſon*, above 20 Years ago, carryed the Chain in ſurveying the ſaid Land for the ſaid *Henry Ward*. [Why the laſt Witneſs, *Thompſon*, ſays it was granted to *Ward* 60 Years ago, and he ſaw the Patent; what was it granted 40 Years before it was ſurveyed?] Knows of no Encroachments, by the *Marylanders* on the *Penſilvanians*. That one *Thomas Noxon*, a Surveyor under the *Penſilvania* Government, ſurveyed the ſaid Land, to the Southward of where the Deponent lives, for one *John Toland who ſettled the ſame*; and he or his Family now lives at the ſame, under the Government of *Penſilvania*.

Three Witneſſes have now ſpoke to *Henry Ward*'s Land, and no one of them pretends that an Inch of it was ever *ſettled* under *Maryland*.

Thomas Price, of *Maryland*, the Defendant's own Witneſs only, aged 64. [*Lib.* G. *fol.* 86. *Int.* 21. *fol.* 86.] Has dwelt for above 20 Years in *Cecil* County. That one *Edwards* about 15 Years ago, and ſeveral other *Welſh People*, ſince, have, *ſeated* under the *Penſilvania* Proprietors, part of a Tract of Land, *taken up* under *Maryland* Rights, for one *Ward*, under the Lord *Baltimore*, and reputed to lie in *Cecil* County in *Maryland*, and then *held by* one *Vander Skeyden*, Mother and Guardian of *Henry Ward*, a Minor. That the Deponent at her Requeſt, forbid two of the ſaid People to ſeat on the ſaid Land, and, by the Son of one of them, who perſiſted in doing it, he was told, that his Father, who could not ſpeak *Engliſh*, would carry the Deponent to the Goal of *Newcaſtle* County, if he gave him any Hindrance in *ſeating* the ſaid Lands.——Does not *know* whether the ſaid Lands are in, or adjoining to, either of the 3 Lower Counties, but the People ſeating the ſaid Land under the *Penſilvania* Proprietors are under the *Government of the ſaid* 3 *Lower Counties*.

Obed. Obedience, of *Maryland*, the Defendant's own Witneſs only, aged 70. [*Lib.* G. *fol.* 55. *Int.* 21. *fol.* 56.] Has dwelt for 20 Years at *Back Creek*, in *Cecil County*. Knows that one *Edwards*, and other *Welſh* People, ſince 1723, under pretence of a Right from the *Penſilvania* Proprietors, have entered and poſſeſt themſelves of ſome Lands, which were thento.ore *ſurveyed* for one *Ward*, Father of *Henry Ward*, under a *Maryland* Right. And the ſaid Land was called *Long Acre*. And that one Mr. *Vander Skeyden*, Guardian of the ſaid *Henry Ward*, *informed* this Deponent that he paid the *Duties* for the ſaid Land, to the Proprietor of *Maryland*, during the Minority of the ſaid *Ward*, and that the ſaid *Edward*'s Children, and others, now live on the ſaid Land. That the ſaid *Perſons*, who *ſettled* the ſaid Land as aforeſaid, told this Deponent that one *Evans*, a Magiſtrate of *Newcaſtle* County, gave *them* a Warrant for the ſaid Land; but never heard the ſaid Land was ſurveyed under a *Penſilvania* Right; and believes there *are* near *twenty* Settlements on the ſaid Land. Knows of no Incroachments made by any of the *Marylanders* on the Inhabitants or Lands of *Penſilvania*.

Inſtances of this ſort being extremely *ſcarce*, the Defendant has beſtowed *five* Witneſſes on this ſingle Tract of *Henry Ward*'s, no one of which pretends that *Ward* had ever *ſettled* a ſingle Foot of this Land, nor does any one of them venture to ſay it was in *Newcaſtle* County. Some ſay it was in *Cecil* County, ſome that it was reputed to be in *Maryland*, or within the Limits of *Maryland*, another that it was *bordering* upon *Newcaſtle* County. If it had been in *Newcaſtle* County, we had a Right to it, if it was not in *Newcaſtle* County, why then, no Survey of it, nor even *Settlement*, if ſuch had been actually made under *Maryland*, was any Aſſertion of the *Maryland* Claim.

We come to two *other* Inſtances relating to *Edward Divier*, at the *Iron Hills*—and *David Parry*.

William Price, of *Maryland*, the Defendant's own Witneſs only, aged 66. [*Lib.* G. *fol.* 59. *Int.* 11. *add. fol.* 62.] Has *heard* there were about 56 Years ago, [1684] *taken up and ſurveyed*, ſeveral Tracts of Land, near the Iron Hills, in *Newcaſtle County* under *Maryland* Rights, one of which Tracts was for one *Edward Divier*, but does not remember to have heard that *any* of the Lands, *were ever ſettled under* Maryland; *except* by the ſaid *Edward Divier*'s planting ſome *Peach Trees* on the ſaid Iron Hills.

This is *hear ſay*, and ſtill no *Settlement* made by *Maryland*.

* *Adam Short*, the Defendant's own Witneſs only, aged 78. [*Lib.* H. *Fol.* 60. *Int.* 8. *Fol.* 61.] Says that, in or about the Year 1682, *Daniel Lewis* had 1000 Acres of Land, called the *Iron Hills*, *taken up*, *for him*, *under the Defendant's Anceſtors*. And that, about the Year 1684 or 1685, *Philip Lines*, one *Goſſager*, and one *Lawellins*, had 1000 Acres of Land, each, *taken up*, *for them*, *under the Defendant's Anceſtors*. *All which Lands*, *about* 39 *Years ago* [1701] were, by Warrant under *William Penn*, then granted to ſome *Welch* People, as Part of the *Welch Tract*, *and have been ever ſince held*, *under the Plaintiff's Anceſtors*, *and themſelves*, *as Part of* Newcaſtle County. Further ſays, that *none* of the ſaid Lands *were ever ſeated*, by *any* Perſons, under Right from *Maryland*, *before* the *Welch* took Poſſeſſion of them. Further ſays that, about a Year after

the ſaid *Welch Tract* was *ſurveyed*, one *David Perry took up* a Tract of Land, under the Government of *Maryland*, which the ſaid *Perry* ſeated, improved, and held till about 20 Years ago, at which Time the Deponent *purchaſed* and ſeated it, *for ſome ſmall Time*, and, till *ſome* Welch *People*, by force, diſpoſſeſt him of it, *who have held it ever ſince*. Further ſays, that the *Surveyor*, who laid out the *Welch* Tract, *declared*, at the taking up the ſaid Land, that it was *not*, within the *Welch* Tract.

The Witneſs chuſes not to tell us, *where* theſe Lands lay, but wherever they lay, he owns they were *never ſeated* by any one *Marylander*. And he ſwears himſelf *intereſted* in the Queſtion.

* *Richard Thompſon*, of *Mary'and*, the Defendant's own Witneſs only, aged 55. [*Lib.* G. *fol.* 109. *Int.* 11. *add. fol.* 113.] Has *heard* that a Tract of Land, *in the County of* Newcaſtle, was formerly *taken up*, and actually poſſeſt, by one *David Parry*, under a *Maryland* Right; and another Tract of Land, *in the ſame County*, *taken up*, and *reputed* to belong to one *LLewellin*, under a *Maryland* Right, are *now* claimed, and poſſeſt, by People under pretence of Rights from the *Penſilvania* Proprietors. [Has not he ſhewn a *juſt* Reaſon for it, that both thoſe Tracts were in *Newcaſtle* County?] And further ſays, that the ſaid Perſons with *Penſilvania* Rights entred into the ſaid *Parry*'s Land, within a Year after his Death, and *before the Perſons*, who had *a Claim to it* under *Maryland* Rights, *attempted it*. Says he *heard* the aforeſaid *Henry Ward* frequently *ſay*, that he paid the Quit-Rents for the Lands mentioned in his former Anſwer to 21 *Int.* to the Lord Proprietor of *Maryland*.

This Man appeared *before* to be intereſted, but if not, yet, now we hear, that *Parry*'s Land lay in *Newcaſtle County*. But hitherto, there is not an Inch of Land, pretended to have been *ſettled* under *Maryland*. And it is owned, that tho' there was a *Maryland* pocket Survey by *Maryland*, yet no Poſſeſſion under it, but that the *Penſilvanians* poſſeſſed the Lands.

We come now to the pretended Inſtances of *Settlements* made by the *Marylanders* in two Manors called *Talbot Manor*, and *New Munſter Manor*, ſtill as to *Newcaſtle County*, which come out to be nothing at all to the Purpoſe.

William Rumſey of *Maryland*, the Defendant's Witneſs [*Lib.* G. *Fol.* 129. *Int.* 2. additional *Fol.* 139.] Is well acquainted with both the Tracts of Land called *Talbot* Manor and *New Munſter*, mentioned in ſome Exhibits marked N° 4. Letters Y and Z, (*except* the Northern Part of *Talbot* Manor) That both of the ſaid Tracts lie in *Cecil County in Maryland*, but the North Part of *Talbot* Manor, and the *North Eaſt* Part of *New Munſter*, is now poſſeſſed by Perſons under the Government of *Penſilvania*.——He believes there are *upwards of* 50 *Plantations* made and ſettled, on *Talbot* Manor, by Perſons under the Government of *Penſilvania*, and *as many* Plantations made and ſettled by Perſons under *Maryland*. And that there are *two or three* Settlements made, *partly*, on the ſaid Tract of Land called *New Munſter* by Perſons under the Government of *Penſilvania*, and about 6 *or* 8 Settlements made by Perſons under *Maryland* Rights. That he believes there is about 8000 Acres of *Talbot* Manor, and 1500 Acres of *New Munſter*, that lie to the *North* of the Eaſt and Weſt Line, run as aforeſaid.

We ſuppoſe that the *Exhibits*, which this Witneſs refers to, are *Copies* of the *Maryland* Grants of thoſe Manors, and what does he prove? that my Lord's People have ſettled in the *lower Counties?* Nothing in the World like it, my Lord has granted out two Manors *in Cecil County*, and his Tenants poſſeſs them; Let them do ſo, That is *not* in the three lower Counties; If it proves any thing, it is rather that we have made Settlements *upon him*, than he upon *Us*. But even that is not the Caſe; for the next Witneſſes unfold the Myſtery, and tell us how *notably* theſe two Manors are ſettled, by *either* of us; and withall tell us the Reaſon why *both Sides* have ſettled upon the Lands deſcribed to make thoſe Manors; Part of them lay in *Cecil* County, Thoſe my Lord's Tenants enjoy; Part of them lay in *Newcaſtle* County, and thoſe the *Penſilvania* Tenants enjoy. And even *this* Witneſs himſelf ſuppoſes it, for he tells us that a great Part of theſe Manors lie *North* of the Temporary Line run by Order of the King in Council lately.

James Alexander of *Maryland*, the Defendant's own Witneſs only, aged 51. [*Lib.* G. *Fol.* 80. *Int.* 11. additional *Fol.* 81.] Knows that three hundred Acres, being Part of the Manor of *New Munſter*, *extends into the County of Newcaſtle*, which ſaid Manor was *ſurveyed* under a *Maryland* Right, in or about the Year 1684. [This is a good (*Maryland*) Witneſs, he ſwears *poſitively* to a Survey being made five Years *before he was born*] That the aforeſaid 300 Acres were *firſt ſettled*, by one *David Meredith*, about twenty Years ago, under the Proprietor of *Penſilvania*.

Of this Witneſs's *own ſhewing*, we had a clear Right to do ſo, and no Pretence that any Settlement was made by *Maryland*.

* *Zebulon Hollingſworth* of *Maryland*, the Defendant's own Witneſs only, [*Lib.* G. *Fol.* 64. *Int.* 2. additional *Fol.* 66.] Is not acquainted with the *North* Bounds of *Talbot* Manor, but knows the *Rivers*, mentioned in the Exhibit, N° 4. Letters Y and Z, and *has heard and believes*, that many of the People, ſettled in *Nottingham Townſhip*, under *Penſilvania* Rights, are ſettled *within* the Bounds or Limits of *Talbot Manor*. And the *Reaſon* of his Belief is, becauſe, ſome of the People ſo ſettled, have themſelves told this Deponent that they lived in *Talbot* Manor aforeſaid——And ſays the *North* Part of what is reputed *Talbot* Manor is now in the *Poſſeſſion* of the Inhabitants of *Cheſter* County, under the Government of *Penſilvania*, and the *South* Part of the ſaid Manor, lying towards *Suſquehannah*, and North Eaſt Rivers, is now in the Poſſeſſion of Inhabitants of *Maryland*——Says he is acquainted with *ſeveral* of the Bounds of *New Munſter* Manor, the *greateſt Part* whereof is now in the Poſſeſſion of the Inhabitants of *Maryland*——That one *Philip David*, Inhabitant of *Penſilvania*, claims a Part of ſaid *New Munſter* Manor, under *Penſilvania Rights*, That he himſelf has a Right to 300 Acres, *under a Maryland Right*, *but that the ſame is with-held from him, by the ſaid David*. [So I ſuppoſe he ſwears to ſupport his *own* Right.] That he paid Quit Rents, for the ſaid 300 Acres, while it was payable in Tobacco, [When was that?] to one *Edward Mitchell*, who was Receiver of the Quit Rents due for Lands thereabouts to the Proprietor of *Maryland*, *altho' the Deponent never was in Poſſeſſion of the ſaid Land*——That the Part claimed as aforeſaid, is reputed to lie in *Newcaſtle County*.——That the *other* Part of the ſaid Manor is reputed to lie in *Cecil County*. That he knows that the ſaid Manors have *both* been ſettled 25 Years, [*i. e.* 1715.] and he believes longer——That he believes the *greateſt Part* of what is reputed *Talbot* Manor lies to the *Southward* of the Weſt and Eaſt Line run purſuant to the Order of his Majeſty in Council. That he believes the *greateſt Part*, if not all, of *New Munſter* Manor lies to the Southward of the Weſt and Eaſt Line aforeſaid.

The Defendant muſt be very adroit indeed to make this an Inſtance of his ſettling Lands within the three *lower Counties*.

We have but *one* more Inſtance, on my Lord's Part, tho' ſeveral Depoſitions, relating to *any* Settlement ever made by him in *Newcaſtle* County, *viz.* by one *Ryley*.

Otho Othoſon of *Maryland*, the Defendant's Witneſs only, aged 72. [*Lib.* G. *Fol.* 28. *Int.* 11. additional *Fol.* 30.] Has *heard* of ſeveral Tracts of Land, *in the County of Newcaſtle*, which have been *taken up* and ſurveyed under *Maryland* Rights; and he has been upon one Tract of the ſaid Land, called *The Lady's Delight*, and another Tract of Land called *Timber Reach*; and alſo of another Tract *taken up* under a *Maryland* Right, by one *Ryley*, who this Deponent knows *ſettled* his Son upon it under the Government of *Maryland*, near 60 Years ago, [1680] who lived thereon *two or three Years*.

And what did *Ryley* do then? Here this Witneſs drops us, but the following Witneſſes inform us.

* *Nicholas Ryley* of *Maryland*, the Defendant's Witneſs only, aged 58. [*Lib.* G. *Fol.* 41. *Int.* 11. additional *Fol.* 42.] Has *heard* his Father *John Ryley* ſay, that he the ſaid *John* purchaſed, from one *Richard Leak* 500 Acres, that lay upon *Apoquinomy* Branches, *in Newcaſtle County*. And that he the ſaid *John* ſettled his Son *William Ryley* upon it, under *Maryland* Rights. That the ſaid *William went away*, *from the Country*, *and left it*, *about* 40 *Years ago*. That *the Deponent*, *now claims the Land*, by the Deaths of his Father and two Brothers. And that his Mother, and he this Deponent, paid Colonel *Hynſon*, *above* 26 Years ago, when he was Sheriff of *Kent* County in *Maryland*, *ſome* Quit Rent for the ſaid Land. And further that, in the Year 1726, he paid Mr. *George Wilſon*, of *Kent* County aforeſaid, 623 Pound of Tobacco, for Quit Rents of the ſaid Land, for the Uſe of *Edward Mitchell*, who the Deponent *heard* had bought the Quit Rents, and threatned to diſtrain for them.

This Witneſs ſwears himſelf *intereſted*, and what does he prove, if he were a good Witneſs? Why, that the Land was *in Newcaſtle County*, and the *Maryland* Tenant run away, and left it, 40 Years ago. But, as this *Ryley*'s Tract was ſaid to be *once ſettled*, the Defendant makes *a great* Buſtle about it, and goes on and purſues his Evidence to this.

Colonel *John Ward* of *Maryland*, the Defendant's Witneſs only, aged 67. [*Lib.* G. *Fol.* 31. *Int.* 11. additional *Fol.* 35.] Has *heard* a Tract of Land, *in the County of Newcaſtle*, was *poſſeſſed*, *upwards* of 30 Years ago, by one *Ryley*, which was taken up and ſurveyed under a *Maryland* Right, and that the ſaid *Ryley* ſettled his Son, under the ſame Right, upon the ſaid Tract.

Hugh Terry of *Maryland*, the Defendant's own Witneſs only, aged 41. [*Lib.* G. *Fol.* 39. *Int.* 11. additional *Fol.* 41.] That one *William Broxall*, ſettled *Thomas Cornwall*, about 23 Years ago, upon a Piece of Land, near *Ryley*'s Run, in *Newcaſtle County*, and *told* the Deponent that he paid *my Lord* his Rent, but what Lord did not more particularly mention as aforeſaid.

Hearſay as to the Payment of *any* Rent. Nor is it ſaid under *what*, or whoſe Right he ſettled?

Geo. Veaſey of *Maryland*, the Defendant's Witneſs, aged 61. [*Lib.* G. *Fol* 82. *Int.* 21. *Fol.* 83.] Has lived, for above 20 Years paſt, in *Cecil* County, and has heard of Buſtles and Troubles, on Account of Encroachments made, by Inhabitants of *both* Provinces, but can give no particular or diſtinct Account of them.

And thus ends the *whole* Account of all my Lord's *Settlements* (as they are called) with reſpect to *Newcaſtle* County, and all the *pretended* Inſtances of our Encroachments upon him; which amount to *this*, that *Ryley* ſettled a Tract, for two Years, until he ran away and left it, 40 Years ago; and that another Man, one *Divier*, about 60 Years ago, planted ſome Peach Trees on Iron Hills.

We now go down to *Kent* and *Suſſex* Counties, on the ſame Points; where we are to be *very ſhort*.

* *William Barnes*, the Defendant's Witneſs only, aged 45, who was born in 1695. [*Lib.* G. *Fol.* 181. *Int.* 11. additional *Fol.* 186.] *Has heard and believes* that, about the Year 1674 or 1675, ſeveral Tracts of Land were *taken up*, in the three lower Counties, by Perſons under Lord *Baltimore*, and, *in particular*, a Tract of Land called *Mulberry Point*, in *Kent* County aforeſaid; and alſo a Neck of Land, called, as he believes, *Slater Neck*, in *Suſſex* County. And alſo another Tract of Land, on Little Creek, in *Kent* County aforeſaid. And he has alſo *heard* of *ſome* other Tracts of Land, in the three lower Counties, that were *taken up*, *and poſſeſſed*, under *Maryland* Rights, but *cannot* particularly name them. *Knows not* of *any* Quit Rents being paid for *any* Lands in the three lower Counties to Lord *Baltimore*, or his Anceſtors; but *has heard* that Quit Rents have been paid for Lands in the three lower Counties to the Proprietor of *Maryland*, but believes the *Perſon* that told him, knew nothing of it, *but by Hearſay*——Says what Knowledge *he has*, of the Matters aforeſaid was, he being at the Houſe of *R. Bennett*, *in Maryland*, one *Stevens* ſhewed him a *Liſt*, of near 20,000 Acres of Land, taken up under the Proprietors of *Maryland*, in the Counties of *Kent* and *Suſſex*, amongſt which, the Tracts *before mentioned* were named; and *told him* that the ſaid *Bennett* had farmed the *Arrearages* of the Quit Rents of the ſaid Lands, from the then Lord *Baltimore*, which was the Occaſion of the making out the ſaid Liſt, and that he the ſaid *Bennett* was to collect and receive them, *but the People refuſed to pay*.

Hearſay from a *Marylander*, who may be now alive, and this Hearſay Witneſs is an *intereſted* one too, and if it were *Evidence*, tho' the Lands were *taken up*, as they call it, it is not pretended by this Witneſs, that one Foot of them was ever *ſettled*, under *Maryland* Rights, in thoſe Counties of *Kent* and *Suſſex*.

Samuel Preſton of *Philadelphia*, our Witneſs, aged 75, but croſs examined, [*Lib.* H. *Fol.* 104. *Int.* 7. additional *Fol.* 112.] Knew one *John Rhodes*, who was a Juſtice of Peace in *Suſſex* County, about 53 Years ago, [1687] but never knew any of the other Perſons. The ſaid *Rhodes* held Lands *upon Rehoboath*, in the ſaid County of *Suſſex*, the Affirmant believes, under the *Plaintiffs Anceſtors*. Further *ſays* he has *heard*, of one Captain *Henry Smith*, that the ſaid *Smith*, in the Time of the *Dutch*, and *before* Proprietor *Penn* had any Claim to the ſaid three Counties, *took up* a Piece of Land under the *Defendant's* Anceſtors, in a Neck called *Prime Hook Neck*, in *Suſſex* County, [This *Hearſay* is contradicted by the written Evidence, for it was taken up under Governor *Andros*] but that, afterwards, the *ſame* Lands were taken up, under Mr. *Penn*, by the ſaid *Smith* or his Son, and under the ſaid *William Penn* and his Family, and have been ever ſince held by the ſaid *Smith*'s Deſcendants.

29.

The Defendant wanted next to know, *where*, and in what Province, four or five particular Gentlemen lived, and *who* they held their Lands under, which, I ſuppoſe was intended to affect the *South Bounds* of *Suſſex* County. Or, at leaſt to ſhew that Settlements had been made in the lower Counties under *Maryland*.

John Teague of *Maryland*, aged 85, our Witneſs, but croſs examined, [*Lib.* H. *Fol.* 43. *Int.* 7. additional *Fol.* 47.] That he knew Colonel *Francis Jenkins*, *Captain Henry Smith*, *John Rhodes* and *Miles Grey*, upwards of 40 Years ago, but does not remember to have ſeen *William Prentice*. That Colonel *Jenkins*, *Henry Smith*, and *Miles Grey* lived in *Somerſet County* in *Maryland*, and he *believes* held their Lands under the *Defendant's* Anceſtors.——But that *John Rhodes* lived in *Suſſex* County, and has heard him, the ſaid *Rhodes*, ſay, held his Land under *William Penn* Eſq;

Note, It appears in our written Evidence, That *John Rhodes* was appointed by Governor *Andros* to be an Enſign of the Company of Foot at the *Whorekills* on 26 *October* 1676, and upon the 10th of *November* 1677 was appointed one of the Juſtices of the *Whorekill* Court by Sir *Edmund Andros*, and upon 8 *October* 1678 was again appointed by Sir *Edmund Andros* one of the ſaid Juſtices for *Whorekill* County, and upon 1ſt and 17th *June* 1680, one of the *Juſtices* for the *Whorekill Court*, by Sir *Edmund Andros*, and, *as ſuch* took the Oath in Perſon before Governor *Andros*, and had a Dedimus to ſwear, and did ſwear, the *other* Juſtices; and that when Mr. *Penn* came, ſoon afterwards, he was immediately appointed, by Mr. *Penn*, one of the *Juſtices* for *Whorekill* Diſtrict upon the 7th *November* 1682, and *again*, one of the Juſtices, for that Diſtrict, by its *new* Name of *Suſſex County*, upon 25th *December* 1682. So that they'll ſcarce attempt to make *John Rhodes a Maryland* Tenant.

As to *Henry Smith*, he never took up his mentioned Lands under the *Defendant's* Anceſtors *at all*. On the contrary, we have, in our *written Evidence*, the Grant made to him by Governor *Andros*, (between 1674 and 1677) of the 3000 Acres called *Prime Hook*, near *Slaughters Creek* by *Prime Creek*; beſides which, we have Governor *Andros*'s Commiſſion to the ſaid *Henry Smith* to be one of the *Juſtices* of the *Whorekill* Court, dated 10 *November* 1677. And we alſo have the Order of 30th *November* 1678, made by the Governor and Council at *New York*, fining him for ſlandering the reſt of the Magiſtrates there; and binding him to his good Behaviour. So that he was *originally* the Duke of *York*'s Tenant and Servant at the *Whorekills*; whether he *afterwards* went down into *Somerſet* County in *Maryland*, being angry at having been fined, we know not.

As to *William Prentice*, we have alſo the Grant which was made to him by Governour *Andros* (between 1674 and 1677) for 400 Acres in the Woods 5 Miles S. W. from the *Whorekill* Town; ſo that he alſo was the Duke of *York*'s Tenant.

My

My Lord ſays in his Anſwer, *fol.* 188, 189. he, and his Anceſtors, have been at very great Expence, from time to time, in improving and *cultivating* the three lowe Counties, and the foregoing are *the Proofs*, by which he would ſupport that *groſs Falſity*.
And here end *all* the Proofs relating to any *Settlements*, ever made by him, or his Tenants, within any of the three lower Counties.

30. It will be proper, therefore, in the *next* Place, to ſee, from his *own Witneſſes*, *what Number of Inhabitants*, they *themſelves* allow to be in the three lower Counties. My Lord, in his Anſwer, *believes*, there may be 40,000; but, (as uſual) they have examined Witneſſes to *falſify* his Anſwer, and to make the Number *leſs* than h admits.

• *William Barnes*, [*Lib.* G. *fol.* 181. *Int.* 17. *add. fol.* 189.] Has lived in *Kent* County above 20 Years, and believes there are *in the three lower Counties* about 1500 or 1600 Houſekeepers and Inhabitants, *that pay Taxes*, a tenth Part whereof he believes are Quakers.

John Holliday, [*Lib.* G. *fol.* 170. *Int.* 17. *add. fol.* 178.] Has reſided 20 Years in *Kent* County, and believes there is upward of 1500 Houſekeepers and Inhabitants, in *Newcaſtle and Kent*, that *pay Taxes*, and believes that about 300 of the 1500 are Quakers.

Cornelius Wiltbank, [*Lib.* G. *fol.* 207. *Int.* 17. *add. fol.* 207.] Has lived in *Suſſex* County ever ſince he was born. Believes there are about 4 or 500 Houſekeepers and Inhabitants in *Suſſex* County, *that pay Taxes*, and about 800 in *Kent* County, and in *Newcaſtle* County about 1200. Three hundred of which, or thereabouts, he believes, are Quakers.

George Roſs, [*Lib.* H. *fol.* 67. *Int.* 3 & 4. *fol.* 69] Says, there are *four* Clergymen of the Church of *England*, ſettled in the three lower Counties, namely Mr. *Pugh*, Mr. *Uſher*, Mr. *Becket*, and the Deponent; who are all Miſſionaries from the Society for the Propagation of the Goſpel in Foreign Parts. He is not acquainted with the Number of *Inhabitants* in any of the three lower Counties, beſides what are within his own Diſtrict, which is but *narrow*, and in the *Hundred* of *Newcaſtle*; wherein, *by computing four* in a Family, he *reckons* there are about 800, including Men, Women and Children, whereof about 240 are of the Church of *England*, about 70 Quakers, and the reſt Diſſenters of different Denominations.

John Pugh, [*Lib.* H. *fol.* 67. *Int.* 3 & 4. *fol.* 68.] Says, there are four Clergymen of the Church of *England*, ſettled in the three lower Counties, and that they are ſettled there by Authority from the Biſhop of *London*, as Dioceſan. He has been ſo ill a great while, he has not been able to take *any* Account of the Number of Inhabitants in his own Pariſh.

Arthur Uſher, [*Lib.* H. *fol.* 74. *Int.* 3 & 4. *fol.* 75.] He ſays, there are but 4 Clergymen of the Church of *England* ſettled in the three lower Counties; and as he has heard and believes, they are ſettled as Miſſionaries from the ſaid Society. He does not know the Number of Inhabitants in the three lower Counties, *or either of them*. But *has heard and believes* there are in *Kent* County about 840 *Taxable* Inhabitants, of which about 382 profeſs themſelves to be of the Church of *England*, and 109 of them profeſs themſelves Quakers; and the reſt Chriſtians, of different Denominations. —— Says, the Pariſh under his Care, is the ſaid County of *Kent*, and he is annually obliged to make a Report of the Number of People in the ſaid Pariſh, and their different Perſuaſions, to the ſaid Society, and that, for that purpoſe, he had made the beſt Enquiry he could.

Daniel Rodney, aged 45. [*Lib.* G. *fol.* 190. *Int.* 17. *add. fol.* 191.] Has lived in *Kent* County from his Infancy, and ſays, that having been, for ſome time, Clerk of that County, and having an opportunity of inſpecting the Levy-Liſt, believes there are about 800 Houſekeepers and Inhabitants *that pay Taxes* in *Kent* County. Of which he believes there are about 50, who are reputed to be Quakers.

William Becket, [*Lib.* H. *fol.* 57. *Int.* 3. *fol.* 57.] He ſays there are four Church of *England* Clergymen, ſettled in the three Counties, by Order of the ſaid Society. That this Year, in order to make a Report to the Biſhop of *London*, of the Number of Perſons within this Deponent's Pariſh, which is the County of *Suſſex*, He went to the Clerk of the County, with one of his Church-Wardens, and conſulted the *Levy-Liſt* of the ſaid County; and, computing the Number at *five* in a Family, they *eſteemed* the whole to amount to about 1800 People. —— He believes that 5 in a Family were as many as there were, upon an Average, —— That, agreeable to the above Calculation, he believes there may be about 1100 of the ſaid People, of the Church of *England*, and the reſt of them Diſſenters, but can't tell how many are Quakers; but that upon an Enquiry, about three Years ago, he found that there were about 17 Families of them, in the ſaid County.

A moſt *impertinent* Inquiry, to gratify my Lord's Curioſity, but no way in Iſſue, what Religion or Perſuaſion any of the People are of.

31. The Defendant examined *eight* more Witneſſes, on his Part, about the *Payment of Quit-Rents* in the lower Counties, *viz.* The *two firſt*, as to the County of *Newcaſtle*; The *two next*, as to the County of *Kent*; and the *four laſt*, as to *all* the three Counties *in general*.

George Roſs, of *Newcaſtle* County, the Defendant's Witneſs, aged 59. [*Lib.* H. *fol.* 69. *Int.* 9. *fol.* 71.] Has lived in *Newcaſtle* Couuty about 30 Years. Has *heard*, from many of the Inhabitants in the ſaid County, that they had *refuſed* to pay *Quit-Rents* for the Lands they held therein, and declared that they would do ſo, *unleſs* they had Deeds to indemnify them from *all Perſons* whatſoever; and particularly from *one Joſhua Story*, who, having taken a Warrant to take up Lands from the Plaintiffs, afterwards declared, that *he* would never pay any Quit-Rents for the ſame, *unleſs* he could have a Patent, with a Clauſe of Indemnification againſt all other Perſons. ——Says, that the ſaid Perſons, who ſo refuſed to pay their Quit-Rents, alledged for the Reaſon of their Refuſal, that the Title to the ſaid Lands was diſputed between the Proprietors of *Penſilvania* and *Maryland*.

• *Adam Short*, of *Newcaſtle* County, the Defendant's Witneſs only, aged 78. [*Lib.* H. *fol.* 60. *Int.* 9. *fol.* 74.] He now lives, and for 49 Years paſt has lived, in *Newcaſtle* County. That *formerly* the Inhabitants of the ſaid County *generally* paid their Quit-Rents to the Plaintiffs Anceſtors ——but, about *thirty* Years ago, many of them refuſed to do it, and the Deponent believes have not, *ſince*, paid any, *to any Perſon whatſoever*, becauſe the People were *told* of the different Claims of the Crown, the Lord *Baltimore* and the *Penns*, and were at a loſs to know their Landlord. ——Does not *know* that *any Suit*, or *Diſtreſs*, has ever been made, for any Rents, due to *any Proprietor* of the three Counties; but has heard that, above *thirty* Years ago, the Land of one *Burrows* at *Apoquinimy*, in *Newcaſtle* County, was *ſeized*, *by a Collector* of Rents for *William Penn* Eſq; and *ſold* for Diſcharge of the ſame.

Iſaac Freeland, of *Kent* County, the Defendant's Witneſs only, aged 54. [*Lib.* H. *fol.* 65. *Int.* 9. *fol.* 66.] Has lived in *Kent* County above 48 Years. That the Inhabitants of *that* County have, *generally*, refuſed to pay *Quit-Rents* for the Lands they hold, *becauſe* they did not know whether the Lord *Baltimore*, or the Plaintiffs, were their Landlords. *He* never heard of *any* Diſtreſs being made, or Suit brought, for the Recovery of *any* Quit-Rents for the Land, in the ſaid County.

John Holiday, of *Kent* County, the Defendant's Witneſs only, aged 45. [*Lib.* G. *fol.* 170. *Int.* 6. *fol.* 170.] Has frequently heard, that ſeveral Perſons, *formerly*, *have paid* Quit-Rents for Lands in the County of *Kent*, to the Proprietors of *Penſilvania*, but *he* has not known, or heard of, any Quit-Rent being demanded, or paid *ſince* the Lord *Baltimore* ſet up a Claim to the three Counties.

James Potter, of *Kent* County, the Defendant's Witneſs only, aged 64. [*Lib.* G. *fol.* 150. *Int.* 6. *fol.* 150.] Says, that *many Years ago*, in the Life of the Plaintiffs Father, Mr. *Logan* came to *Dover*, to demand Quit-*Rents* from the Inhabitants in the three lower Counties in queſtion, for the Uſe of the Plaintiffs Father; and that, *afterwards*, one *Clarke*, an Agent, as he ſuppoſed, to the Proprietor of *Penſilvania*, *came*, *demanded*, and *received* of *ſeveral*, in the ſaid County of *Kent*, *ſome Quit-Rents*. —— But, there being a Diſpute between the Proprietors of *Maryland* and *Penſilvania*, concerning the *Right* to the ſaid three lower Counties, the *Generality* of the People in the ſaid Counties *refuſed* to pay any Quit-Rents, by Reaſon, as he underſtood and heard, they thought a Receipt for the Quit-Rent from *one* Proprietor would not diſcharge them againſt the other.

• *Daniel Needham*, of *Kent* County, the Defendant's Witneſs only, aged 57. [*Lib.* G. *fol.* 155. *Int.* 6. *fol.* 156.] *Believes ſome* of the Inhabitants of the three lower Counties *have paid* Quit Rents for Lands in the lower Counties to the *Penſilvania* Proprietors, and *ſome* have refuſed to pay; the Reaſon of which Refuſal, as he heard, was becauſe the Right to the ſaid Counties was conteſted. Some ſaid it belonged to the King, ſome ſaid to the Proprietor of *Penſilvania*, ſome to the Proprietor of *Maryland*. ——The *Quit-Rent* for the Land whereon this Affirmant *now lives*, in *Kent* County, *was paid* to the Proprietor of *Penſilvania* till the Year 1705, *it being in the whole about* 20 *Years*, but knows of *no* Quit-Rents that have been *lately* paid in the ſaid three lower Counties.

Charles Hilliard, of *Kent* County, the Defendant's Witneſs only, aged 63. [*Lib.* G. *fol.* 158. *Int.* 6. *fol.* 165.] Believes the Inhabitants in the three lower Counties have not, for *ſome* Years laſt paſt, paid *any Quit-Rents* for Lands to the Proprietors of *Penſilvania*; and the Reaſon why they don't pay any Quit-Rents is, becauſe of a Diſpute between the Proprietors of *Penſilvania* and *Maryland*, as he apprehends.

• *William Barnes*, of *Kent* County, the Defendant's Witneſs only, aged 45. [*Lib.* G. *fol.* 181. *Int.* 6. *fol.* 182.] *Has heard* that Quit-Rents, for Lands in the lower Counties, have been paid to the Proprietor of *Penſilvania*; but *has not heard* that *any* Quit-Rents have been paid or demanded *ſince he lived* in this County, which is *above* 20 *Years*; he has *ſeen*, and *had* in his Cuſtody, *a Receipt*, for Quit-Rents, that was paid for the Uſe of the Proprietor of *Penſilvania*, for Land and Marſh, which he is now in Poſſeſſion of in *Kent* County.

Note, The laſt 8 are all of them the Defendant's own Witneſſes, and we did not examine any one of them at all, except Mr. *Roſs*.

Note, The Articles of Agreement recite (as *one* of the Inducements thereto) that, notwithſtanding ſeveral Treaties and Endeavours for ſettling the Diſputes and Differences, divers *Difficulties* had riſen, and *many Perſons had ſeated* themſelves, upon great Parcels of the Lands in diſpute, *without Authority* from either of the Proprietors, and *without paying the uſual Fines or Quit-Rents*, or conforming themſelves to the Government and Eſtabliſhment ſettled in *any* of the ſaid Provinces or Counties; but, for the putting a *final and friendly End and Accommodation to the ſaid Diſputes and Differences*, It is agreed, *&c.*

32. In the next Place, my Lord examined the Clerk of the Council here, to prove, that we had always *appointed* the Governour for the lower Counties; but that, upon the Crown's *approving* of ſuch Governours, we ſigned a *Declaration* that it ſhould not prejudice the Right *claimed* by the Crown.

William Sharpe Eſq; Clerk of the Council, [*Lib.* F. *fol.* 1. *Int.* 4. *fol.* 3.] Is acquainted with the *Method* which hath been taken in appointing a Governour, or Deputy, or Lieutenant Governour for the three lower Counties, and hath been acquainted therewith, for about 30 Years laſt paſt, by means of having, during the ſaid Time, belonged to the Privy Council Office, and is now one of the Clerks of the Privy Council. And ſaith that, to the beſt of this Deponent's Knowledge, Remembrance, and Belief, ſuch Deputy or Lieutenant-Governour, hath, from time to time, *during his Knowledge* as aforeſaid, been nominated by the Proprietor or Proprietors of the Province of *Penſilvania*, at the ſame time when ſuch Proprietor or Proprietors hath or have nominated to the Crown a Perſon to be Deputy or Lieutenant Governour of the ſaid Province of *Penſilvania*. And ſaith that *one and the ſame Perſon* hath *always*, during this Deponent's ſaid Knowledge, been ſo nominated as aforeſaid Deputy or Lieutenant Governour for the ſaid 3 lower Counties, and Deputy or Lieutenant Governour for the ſaid Province of *Penſilvania*; and that ſuch Nomination of Deputy or Lieutenant Governour, hath been, always, laid before the Crown, in Council, by way of Petition or Repreſentation, by the ſaid Proprietor or Proprietors, thereby humbly praying the Approbation of his or her Majeſty for ſuch Perſon to be Deputy Lieutenant Governour, as aforeſaid. And further ſaith that it *hath been uſual* for ſuch Governour to be *firſt approved* of by the Crown, before he can take upon, or has any Juriſdiction over, the ſaid three lower Counties; and that, in his Judgment and Belief, it is *neceſſary* for ſuch Governour to be firſt approved on by the Crown, before he can take upon, or has any Juriſdiction over, the ſaid 3 lower Counties; and the Reaſon of his Judgment and Belief is, for that ſuch Proprietor or Proprietors, in his or their ſaid Petition or Repreſentation, doth, or do ſet forth, that ſuch Perſon is nominated Deputy Lieutenant Governour, to his or her Majeſty, *in purſuance of an Act of Parliament in that behalf*, or to that Effect; And ſaith that, in the Order, of the Crown in Council, ſignifying the *Royal Approbation* of the Perſon nominated, to be Deputy or Lieutenant Governour of the ſaid Province of *Penſilvania*, and the ſaid 3 lower Counties, aforeſaid, it hath *always* been ſignified, that the Crown approves of ſuch Perſon to be Deputy or Lieutenant Governour of the ſaid Province of *Penſilvania*, *without any Limitation of Time*, and to be Deputy or Lieutenant Governour of the ſaid 3 lower Counties, *during the Pleaſure of the Crown*, or to that Effect. And further, ſaith, that to the beſt of his Knowledge and Belief, it hath *not* been inſiſted upon, on Behalf of the Crown, or of any other Perſon or Perſons, that *the Governour* ſhould ſign or ſubſcribe a Declaration in Writing, ſignifying that ſuch Appointment of a Governour, or Deputy, or Lieutenant Governour of the ſaid 3 lower Counties ſhould not in any manner be conſtrued to eſtabliſh any Right in the Proprietors of the ſaid Province of *Penſilvania* to the ſaid 3 lower Counties, or to *any other* Purport or Effect; *Nor have the Governours or Deputy, or Lieutenant Governours* of the ſaid 3 lower Counties, *at any time*, to the beſt of his Knowledge and Belief, upon their being appointed to ſuch Government, ſigned or ſubſcribed *any* Declaration, to that Purport or Effect; *But*, ſaith that, to his Knowledge, it hath been inſiſted upon, by, or on the Behalf of the Crown, upon the Approbation of the Crown of ſuch Deputy, or Lieutenant Governour, as aforeſaid, that *ſuch Proprietor* or Proprietors as aforeſaid, ſhould *make a Declaration*, in Writing, that the Approbation of the Crown, of ſuch Deputy or Lieutenant Governour, of the ſaid 3 lower Counties, ſhould not be conſtrued in any manner to diminiſh or ſet aſide, the Right, *claimed* by the Crown, to the ſaid 3 lower Counties, or to that Purport or Effect; And that, alſo, to the beſt of his Knowledge and Belief, *unleſs* ſuch Declaration, in Writing, be made, by the *Proprietor* or Proprietors as aforeſaid, ſuch Deputy or Lieutenant Governour *would not have been* admitted to ſuch Government; it having been, to his Knowledge, an *uſual Condition*, in the Order of the Crown, approving of ſuch Governours, that the ſaid Proprietor or Proprietors ſhould make *ſuch* Declaration as aforeſaid, *unleſs* ſuch Declaration had been made by ſuch Proprietor or Proprietors *before*, the approving of ſuch Governours, *which hath been done ſometimes*.

Note, The foregoing Depoſition is preciſely true, and is indeed the Sum and Subſtance of a Number of Orders of Council, made upon our Appointments of Governours, from time to time, ſince the Year 1702; at which time, when we applied for the Crown's *Approbation*, purſuant to the *then new* Act of Parliament, the ſaid Declaration was *firſt required* of us, and has, ever ſince *that* time, been, on ſuch occaſions, renewed. But Mr. *Penn*, in Perſon, and his Deputies, *before* that time, and from the Year 1682, exerciſed the Government of the 3 lower Counties, for near 20 Years together, and had the Government of the ſame reſtored to him by the Crown alſo, without any one ſuch Declaration, till that *new* Act of Parliament was made, requiring Proprietors of *all* Plantations abroad, to have the Crown's *Approbation* of the Governours which they appointed: and that gave the *firſt* Opportunity of requiring that Declaration from us.

33. The Defendant next enquired how many *Ports and Harbours* there were, in going up *Delaware* Bay?

Thomas

Thomas Hynson Wright, of *Maryland*, aged 52, the Defendant's own Witneſs only. [*Lib.* G. *fol.* 251. *Int.* 18. *add. fol.* 268.] Is but *little* acquainted with the *Bay*, or *River* of *Delaware*, and therefore can't take upon him to deſcribe *how many* Ports or Harbours there are therein; having *never* been in *any* of them, but St. *George*'s Creek on the Weſt, and *Salem* Creek on the Eaſt.

John Price, a Pilot, aged 42, the Defendant's own Witneſs only. [*Lib.* G. *fol.* 199. *Int.* 18. *addit. fol.* 200.] Is acquainted, and has been for 30 Years paſt, with the *Bay* and *River* of *Delaware*, by ſailing up and down the ſame. Says there is, on the *Eaſt* ſide of the ſaid *Bay*, Harbours fit for Trade and Shipping, *viz. Morris*'s River and *Cohanſic* Creek. And on the *Eaſt* ſide of *Delaware* River, *Salem* Creek, *Timber* Creek, and *Ankokus* Creek —— And that there is, on the *Weſt* ſide of the ſaid *Bay*, *Prime-hook Bay*, and, on the *Weſt* ſide of the ſaid *River*, *St. George's Creek*, *Chriſtiana* Creek, *Derby* Creek, and *Skuylkill* River.

Theſe, I ſuppoſe, are to ſhew that there is no *abſolute Neceſſity* that the Proprietors of *Penſilvania* ſhould have the lower Counties *alſo*, for the ſake of *Harbours* in them; for that, truly, in coming up the Bay to *Penſilvania*, there are *other* Harbours, alſo, on the *other ſide* of the Bay, in *New Jerſey*.

But he don't ſhew us *where* thoſe Places are ſituated; and if he did, Does the Wind *always* favour to ſtand at *Weſt*, to carry Ships in Times of Danger, into thoſe *Eaſtern* Harbours? And if it did, muſt not *Penſilvania* Ships pay *Port-Charges*, if they go into another *diſtinct* Province?

But this Witneſs, is a Pilot, and a very knowing one, and has proved a *material Fact* for us, which the Defendant is not *aware of*. You obſerve, he *carefully* diſtinguiſhes (on *both* Sides) which of the Harbours are in the *Bay*, and which are in the *River* of *Delaware*; and he ſays St. *George*'s Creek is in *the River*; That proves *then* that the *Bay* is ended, at leaſt, *there*; and that is, (upon a direct North Courſe) above 8 Miles *South* of *Newcaſtle*. Whereas, by the Articles, we convey to my Lord about 5 Miles *above Newcaſtle*, *North* of it.

Conſequently, *at leaſt*, thoſe 13 Miles above the *furtheſt* Part of the Land-mark mentioned in his *own* Charter.

34. We had, abundantly, proved that, when Goods came, not out of *Penſilvania*, but meerly out of the lower Counties, Duties were demanded for them in *Maryland*, under Laws paſt there which affected only *Penſilvania*, and *its Territories thereunto belonging*, and had *conſequently* ſhewn that, in *Maryland*, and even by the *Legiſlature* of it, the lower Counties were conſidered *as the Territories belonging* to *Penſilvania*, (notwithſtanding my Lord's abſolute Denial of *that* Fact.) He, not contented, goes on to examine Witneſſes, in order, if poſſible, to have *contradicted* that Fact; but it comes out, as uſual.

John Scott, aged 34, our Witneſs, but croſs-examined by the Defendant. [*Lib.* H. *fol.* 73. *Int.* 10. *fol.* 74.] He *himſelf* has paid Duty for Rum imported, by Land, from *Apoquinomy*, to the Head of *Bohemia* River; but does not know where the Head of *Cheſopeak* Bay is. That the Rum was *never landed* at *Philadelphia*, but brought *directly* from *Antigua* to *Apoquinomy*.

John Carnan, of *Maryland*, Merchant, our Witneſs, but croſs-examined by the Defendant. [*Lib.* H. *fol.* 52. *Int.* 10. *fol.* 53.] Has known Duty paid for *Rum* and *Negros* imported, by Land, to the Head of *Bohemia*, and to *Suſquehanna* River; but does not know the Head of *Cheſopeak* Bay, or that any Rum or Negros have been *thereto* imported by Land.

35. The next Step my Lord took, was to fiſh for ſome Counties, called *Durham* and *Worceſter* Counties, ſcituate ſomewhere or other; but nobody knows any thing of any ſuch Counties.

John Teague of *Maryland*, aged 85, our Witneſs, but croſs-examined. [*Lib.* H. *fol.* 43. *Int.* 9. *addit. fol.* 48.] That he has *heard* of a County called *Worceſter* County, but knows *nothing about it*.

36. Well, there was *another Fact* my Lord wanted to prove, that, *lately*, one *Creſſap*, had held *a Fort*, ſome where or other, under Lord *Baltimore*'s Government, and to that end he croſs-examined our two following Witneſſes.

Samuel Hollingſworth, aged 67. [*Lib.* H. *fol.* 29. *Int.* 2. *addit. fol.* 33.] our Witneſs croſs-examined, has *heard* of a Fort, on the *Weſt*-ſide of *Suſquehannah*, *lately* kept by one *Creſſap*, under the Government of *Maryland*; and has *heard*, upwards of 40 Years ago, that, there *formerly* was an *Indian* Town and Fort, on the Eaſt-ſide of *Suſquehannah*, *near the Mouth of Octorara*.

John Muſgrave, another of our Witneſſes, aged 73, croſs-examined. [*Lib.* H. *fol.* 34. *Int.* 2. *addit. fol.* 39.] Has *heard* of no *other* Fort, on the Weſt-ſide of *Suſquehannah*, than one, that was *lately* kept there, under the Government of *Maryland*, by one Captain *Creſſap*.

Note, *No Place* mentioned, by either of theſe *Hearſay* Witneſſes, for *Creſſap*'s *late* Fort; and the River *Suſquehannah* runs down, *North and South*, Part of it in and through both Provinces.

37. Now we come to the Defendant's Proof, in relation to the *Agreement*, and the *Treaty* in order thereto.

John Sharpe [*Lib.* F. *fol.* 14. *Int.* 5. *fol.* 15.] That this Deponent doth know of, and was *privy* to, a Treaty that was entred into, and carried on, by and between the Plaintiffs and Defendant for ſettling and determining the Bounds between the Provinces of *Maryland* and *Penſilvania*, this Deponent being concerned for the ſaid Defendant, as his Solicitor, in relation thereto; but ſaith that he *doth not know*, *nor can he ſay*, otherwiſe than as herein after is mentioned, when, or by whom, ſuch Treaty was *firſt* propoſed or ſet on foot; or upon *whoſe* Application, Solicitation, Inſtance or Requeſt; this Deponent *not being privy to the firſt Commencement* of the ſaid Treaty, and not being made acquainted therewith, or conſulted therein, *until after ſome Progreſs* had been made therein; and that, when this Deponent came to be employed and concerned in the ſaid Treaty, this Deponent apprehended and underſtood, that the ſaid Treaty was firſt propoſed, and ſet on foot, by the ſaid Plaintiffs, and that the ſame originally proceeded from their Application, Solicitation, Inſtance and Requeſt; And this Deponent believes the ſame to be true, for that, after this Deponent was concerned and employed therein, the ſaid Plaintiffs Solicitor Mr. *Paris*, on their behalf, was much more preſſing for the effecting and compleating the ſaid Treaty, than the ſaid Defendant the Lord *Baltimore*; but, in what manner, or with what View, or Deſign, ſuch Treaty was ſo propoſed, and ſet on foot, otherwiſe, than to fix and aſcertain the Boundaries between the two Provinces of *Maryland* and *Penſilvania*, this Deponent, being of his own Knowledge a *Stranger* thereto, cannot ſet forth. And further ſaith, that this Deponent was preſent at *two* ſeveral Meetings, (*and not more than two*, to the beſt of his now Remembrance and Belief) which were had between the Defendant and the Plaintiffs, or ſome of them, upon the Subject-matter of the ſaid Treaty, but the Times *when*, or Places *where*, this Deponent cannot ſet forth, other than to the beſt of this Deponent's now Remembrance and Belief they were had in *July* or *Auguſt* 1731, at the *Bedford-Head Tavern* near *Covent-Garden* in the County of *Middleſex*. And ſaith that the Defendant, Mr. *Ogle*, the Plaintiffs *John* and *Thomas Penn*, *Thomas Beake* Eſq; ſince deceaſed, the Plaintiffs Sollicitor, Mr. *Paris*, and this Deponent, were preſent at *one*, if not at *both*, of the ſaid Meetings, but whether any other Perſons, and if any, who elſe, were preſent thereat, this Deponent cannot recollect. And ſaith that the *principal Diſcourſe*, which paſſed at ſuch Meetings, was, in relation to bringing the ſaid Treaty to a *Concluſion*, and agreeing upon the *Heads* thereof, and giving Inſtructions for carrying the ſame into Execution, by directing *proper Deeds or Inſtruments* to be prepared for that Purpoſe; And that, to the beſt of this Deponent's now Remembrance, and as he verily believes, there were *two* little Plans or Maps produced, upon that Occaſion, at *one* of the ſaid Meetings, the *one* of them by the Defendant, and the *other* of them by one of the Plaintiffs, either the ſaid *John* or *Thomas Penn*, but which particularly can't recollect; and which ſaid *two* Plans or Maps, to the beſt of his preſent Remembrance and Belief, correſponded and agreed with each other. And ſaith that the Defendant the Lord *Baltimore*, upon the ſaid Plan or Map ſo produced by him, and the ſaid Plaintiff *John* or *Thomas Penn*, upon the ſaid Plan or Map produced by one of them, did, to the beſt of this Deponent's now Remembrance and Belief, with a Pencil, draw Lines, which were ſo done, in order thereby to denote, as this Deponent underſtood and believes, in what manner the Boundary-Lines in Controverſy between them ought to be run; but this Deponent, not putting down in Writing what paſſed at ſuch Meetings, cannot ſet forth the Subſtance, Purport, or Effect of the ſeveral Propoſals, Objections and Obſervations, which were made uſe of, upon the Matters then under Conſideration; nor by whom by Name the ſame were reſpectively ſo made; ſave that, in general, this Deponent very well remembers that the ſaid Plaintiffs *John* and *Thomas Penn ſeemed*, as this Deponent apprehends, and is of Opinion, to have *been much better prepared* for ſuch Meetings than the ſaid Defendant, who *ſeemed* to have no other Information of the Matters, *then* under Conſideration, than what aroſe from the ſaid *Plans* or *Maps*, *and the Information he received from the ſaid John and Thomas Penn*, and upon whoſe Repreſentation of the Matters, then under Conſideration, the Defendant, to the beſt of this Deponent's now Remembrance and Belief, *ſeemed principally* to *rely*; his Lordſhip being then, as this Deponent verily believes, of his own Knowledge, an *entire Stranger* to, and *wholly unacquainted with*, *the Situation* of the ſaid Country; And which ſaid Plan or Map (ſo produced by the ſaid Defendant, and upon which, and the Information given him by the ſaid Plaintiffs *John* and *Thomas Penn*, his Lordſhip *ſeemed*, in the Opinion and Judgment of this Deponent, *entirely to rely*) was, as this Deponent hath been ſince *informed* by the ſaid Defendant and others, and *therefore* doth believe, drawn in *Penſilvania*, and ſent from thence to *Maryland*, to the ſaid Defendant the Lord *Baltimore*'s Agents *there*, and *by them* tranſmitted to his ſaid Lordſhip in *England*; And this Deponent hath been ſince *informed* by his ſaid Lordſhip and others, and *therefore* doth believe, that the ſaid Plan or Map, ſo produced by the ſaid Defendant, was very *incorrect* or *erroneous*. And this Deponent ſaith that, to the beſt of his Remembrance and Belief, either the ſaid *John* or *Thomas Penn* declared, at *ſuch* Meeting at which the ſaid Plans or Maps were ſo produced, that the Plan he ſo produced, had been ſent him from *Penſilvania*, by the Deputy Governor there, in order to treat with the ſaid Defendant the Lord *Baltimore* in Relation to the ſettling the ſaid Boundary-Lines. And this Deponent ſaith that there was *no other* Map or Plan, to the beſt of *his* Remembrance and Belief, made uſe of, *on ſuch Treaty*, than the aforementioned *two* Plans or Maps. And the Reaſon *no other Map* or Plan was then uſed, was, as this Deponent verily *believes*, from a firm Perſuaſion and Opinion, in the ſaid Defendant the Lord *Baltimore*, that the ſame were *juſt* Plans, and that he might *ſafely* rely thereon. And this Deponent further ſaith, that he is *very ſure*, that nothing paſſed at the *ſaid* Meetings, on either ſide, that was, in the leaſt, *over-bearing*, but all ſeemed to be tranſacted in a very *friendly* manner, and that there were *Conceſſions* mutually made, on each ſide, to the beſt of this Deponent's now Remembrance and Belief; And this Deponent further ſaith that, to the beſt of his now Remembrance and Belief, it was agreed, at the ſaid Meeting where the ſaid Plans or Maps were ſo produced as aforeſaid, that the ſaid Plan or Map, ſo produced by the Defendant the Lord *Baltimore*, ſhould be the Plan or Map on which the Agreement then came to, ſhould be founded; and that the ſame ſhould be affixed, or annexed, to the Agreement, as a Means the better to explain the ſame; And this Deponent very well remembers that Mr. *Senex*, ſince dead, was *pitched* upon as a proper Perſon to be employed in engraving the ſaid Plan or Map, and who was, as this Deponent believes, named by the ſaid Defendant the Lord *Baltimore*, as one he had heard of, but not as one he was at all perſonally acquainted with; And this Deponent ſaith that, to the beſt of this Deponent's now Remembrance and Belief, the ſaid Plaintiffs *John* and *Thomas Penn* immediately agreed to the ſaid Mr. *Senex* being employed therein; And this Deponent doth not remember that any other Perſon, *by Name*, was propoſed for that Purpoſe; And this Deponent further ſaith that the ſaid Mr. *Senex* did, accordingly, as this Deponent apprehends and believes, engrave the ſaid Plan or Map on the Parchment-Writing, on which the ſaid Agreement was afterwards engroſt; And that the Plan or Map, marked on the Backſide thereof with the Letter (*F*) appearing to be printed or ſtampt upon the Parchment-Writing, markt with the Letter (G) and purporting to be Articles of Agreement between the ſaid Defendant the Lord *Baltimore* and the Plaintiffs, now produced, does, as this Deponent apprehends and verily believes, exactly *agree with the ſaid Plan or Map* ſo *produced by* the ſaid Defendant the *Lord Baltimore*, and made uſe of at *ſuch* Meeting as aforeſaid; and that there is *no Variation or Difference therein*, to the beſt of this Deponent's Knowledge and Belief, from that ſo produced as aforeſaid by the ſaid Defendant the Lord *Baltimore*; and this Deponent ſaith that, at *ſuch* Meetings as aforeſaid, or *one* of them, the ſaid Defendant the Lord *Baltimore* did, to the beſt of this Deponent's now Remembrance and Belief, produce a *Paper-Writing*, purporting to contain *Notes* of Matters he the ſaid Lord *Baltimore propoſed* ſhould be *provided* for, and inſerted, in the Agreement which was then intended to be entred into; and which ſaid Paper-Writing *was all of the proper Hand-writing* of the ſaid Defendant the Lord *Baltimore*, as this Deponent verily believes. And this Deponent ſaith that *ſuch Paper*-Writing did not purport to be *compleat* Notes of *every* thing, or to contain the Subſtance of all the ſeveral Matters propoſed as Part of the ſaid intended Agreement, but only, to purport or contain *ſhort Notes or Heads* concerning the Matters then under Conſideration, and were made, as this Deponent apprehends and believes, only as Memorandums for the ſaid Defendant the Lord *Baltimore*, againſt the ſaid Meetings, to remind himſelf thereof, and *to prevent* his forgetting the ſame; And this Deponent ſaith that it was not propoſed, deſired or inſiſted upon, by the ſaid Defendant the Lord *Baltimore*, or on his behalf, at *ſuch* Meetings, or either of them, that the ſaid Agreement ſhould be drawn on the Foot of thoſe Notes only, but that all that was inſiſted upon by the ſaid Defendant the Lord *Baltimore*, or on his behalf, *was*, that the *ſeveral Matters contained in the ſaid Notes*, ſhould be provided for, and inſerted in the ſaid Agreement, and which the ſaid Plaintiffs *John* and *Thomas Penn agreed to*; And further this Deponent ſaith, that the ſaid Paper-Writing or Notes were read over, at ſuch Meetings, or one of them, to the Company then preſent, by the ſaid Defendant the Lord *Baltimore*; And that, to the beſt of this Deponent's preſent Remembrance and Belief, either the ſaid Plaintiff *John* or *Thomas Penn*, or the ſaid Mr. *Paris*, for or on the behalf of the Plaintiffs (but which of them in particular, this Deponent cannot recollect) did aſk or deſire the ſaid Defendant the Lord *Baltimore*, to deliver to him the ſaid Paper-Writing or Notes, in order to inſert them into the ſaid Agreement; To which the ſaid Defendant the Lord *Baltimore* anſwered, to the beſt of the Deponent's now Remembrance and Belief, that he had *no Copy* of ſuch Paper or Notes, but that he would deliver the ſame to this Deponent his Sollicitor, in order to this Deponent's giving them a Copy thereof; and his Lordſhip did then, at ſuch Meeting, deliver the ſame to this Deponent, with Directions to make and ſend, the Plaintiffs, or the ſaid Mr. *Paris*, a Copy thereof, in order to inſert the ſame in the ſaid Agreement; And the ſaid Defendant the Lord *Baltimore*, did, very readily, and without any the leaſt Difficulty, agree and conſent thereto; And this Deponent further ſaith that, in ſome *few Days afterwards* (but the particular Day when, this Deponent cannot now recollect) he this Deponent did give, or ſend to, the ſaid Mr. *Paris*, and for, or on the behalf of the ſaid Plaintiffs, a *Copy* of the ſaid Paper-Writing, or Notes, and which, as this Deponent verily believes, was a true and exact Copy thereof; And this Deponent ſaith that the *Purport or Subſtance* of the ſaid Paper-Writing or Notes, ſo produced as aforeſaid by the Defendant, is as followeth (that is to ſay) " 1. There ſhall be a Circle of 12 *M*—— *Diſt*—— *drawn from New-*
" *caſtle*. 2. The Proprietors of *Penſilvania* ſhall be intitled to 15 Miles South of *Philadelphia*, by a Weſt Line drawn from the Point of the South and North to the Extent of
" their Weſt Limits, comprized in the Charter of *Penſilvania*. 3. There ſhall be a Line South drawn from Eaſt and Weſt Line aforeſaid, which ſhall intercut the Periphery of
" the Circle of *twelve Miles from Newcaſtle* *, until it intercut the Parallel of an Eaſt and Weſt Line drawn to the Promontory or Cape called Cape *Hinlopen* at Rect-Angles. 4.
" The Lord *Baltimore* to quit all Pretenſions to the three Lower Counties, known to be at preſent comprized within the Limits aforeſaid (that is to ſay) within the twelve Miles Circle
" of *Newcaſtle*, and the North and South Line drawn as aforeſaid on the Weſt, and the Bay of *Delaware* on the Eaſt. 5. The Proprietors of *Penſilvania* to quit all Pretenſions
" to any Land to the Southward of the Line of 15 Miles from *Philadelphia*, and to the Weſt of the North and South Line heretofore deſcribed, and for the Conſiderations afore-
" ſaid, convey to the Lord *Baltimore* all Right and Title they may have thereunto belonging. 6. For the quieting the preſent Poſſeſſors of the Land in Diſpute, and the better
" informing the reſpective Proprietors of the Provinces aforeſaid, It is agreed by the Parties contracting, that it ſhall and may be lawful for each Proprietor to have Copies, at their

" reſpective

" reſpective Coſts and Charges, of the Grants, Patents, Leaſes, *&c.* by which any of the preſent Claimants hold their Lands; and moreover it is mutually agreed that freſh Patents, " Leaſes, Grants, *&c.* ſhall be made out, to all the Poſſeſſors of Lands, Houſes, *&c.* within the preſent diſputed, and by this determined Boundary, without any Fines or Arrear- " ages of Rent, whatſoever, provided they become Tenants to the reſpective Provinces, ſubject to the Rents and Reſerves common to the Land-holders of the reſpective Pro- " vinces, ſubject nevertheleſs to uſual Fees to the proper Officers of the ſaid Provinces, for the taking out of any new Patents for the Lands and Tenements they at preſent are " poſſeſt of." And to the Truth thereof this Deponent can the better depoſe, *having the ſaid Original Paper-Writing or Notes, in this Deponent's Cuſtody or Poſſeſſion*, the ſame having been *lately found*, and this, with what will beſt and further appear in and by the ſaid Paper-Writing or Notes, and the ſaid produced Plan or Map, whereto this Deponent refers, is all he can materially depoſe to this Interrogatory, to his preſent Remembrance.

Mr. *Sharpe* expreſly ſwears that he was *not privy* to the *Commencement* of the Treaty, and that he does *not know at whoſe* Requeſt it began. (That laſt is a Fact which ſhall be cleared up by and by) And it's obſervable that they would not examine Serjeant *Wynne*, who ſwears he, as my Lord's Council, was preſent, at my Lord's Requeſt, at *ſeveral* Meetings in order *to try to agree*. Mr. *Sharpe* goes on, That he was *only* preſent at *two* Meetings, and thoſe in *July* or *Auguſt* 1731, *after ſome Progreſs* had been made in the ſaid Treaty; That, at the ſaid Meetings which he was preſent at, the principal Diſcourſe which paſt was, in relation to the bringing the Treaty to a *Concluſion*, and agreeing upon the Heads thereof, and giving Inſtructions for carrying it into Execution, by directing *proper Deeds* or Inſtruments to be prepared.

He ſays, that he *apprehended* and *underſtood* that the Treaty began at the Plaintiffs Requeſt, but that he does not know it; of which hereafter.

He ſays, that at thoſe Meetings which he was at, the Plaintiffs *ſeemed* to be better prepared for ſuch Meetings than my Lord was. Whoſe Fault was that, if it really was ſo?

That my Lord, at *thoſe* Meetings, ſeemed to have no *other* Information of the Matters, *then* under Conſideration (and he has told us *what* they were) than what aroſe from his, and our Maps, and the Information he received from us, On which my Lord *ſeemed principally* to rely: Be it ſo, If he received his Map, from his *own* Agent, as, after 9 Months Conſideration of the Draught, he owned under his Hand and Seal, and ſtill ſwears he did; and had had it many Years by him, as he, even *now*, ſwears poſitively he *had had* it; and if, over and above all this, his Map was *exceedingly juſt and true*, preciſely in the very Part where he pretends 'twas *groſly falſe*; what *other* Information could he have had? Or, if *further* Information was ſtill to have been had, what hindred his getting it? Two Perſons, *Paris* and *Abraham Taylor*, *believe* he ſent the *Subſtance* of the Draft over to *America*, during the nine Months that the Draft itſelf was under his Conſideration; And the *Reaſon* of their Belief thereof ariſes from what he himſelf declared, at *two ſeveral* Times, *viz.* on 29th *March* 1732, when he gave over that material *new Clauſe* about the ſtrengthening of navigable Waters; and again on 10th *May* 1732, when he executed the Articles; And they are ſtrongly corroborated in this their Belief, by the Defendant's Witneſs (who ſays, *now*, that thoſe Articles, if executed, would cut off *navigable Waters*. Was my Lord ignorant of that? No. His *new Clauſe* delivered on 29th *March* 1732, provides expreſly for *that very Caſe*, and for nothing in the World *but that*: So that my Lord, long before the Draft was ſettled, either knew the Situation of his Province, or had been informed from *Maryland* of it. And that Clauſe, as he *then* declared, *his People* inſiſted on, and *therefore*, he *muſt have it*; ſo that there is *all* the Proof, that we could give of *his* Actions, that *he did* (*additional* to all his *other* Information) ſend the Agreement, or Subſtance of it, over to his own Agents in *Maryland*, for *further Information* ſtill, during the *nine Months* he had the Draft of it before him. And as to what *ſeemed* to Mr. *Sharpe* at thoſe Meetings, it was an untrue *Seeming* or Appearance, for, beſides all this, my Lord himſelf, and another Witneſs of ours, prove he really had *other* Information, *long* before; for they have examined a Witneſs, Mr. *Preſton*, to prove that Mr. *Logan* had been, heretofore (in the Abſence of the late Mr. *Penn* from *Penſilvania*, and afterwards, in the Infancy of the now Plaintiffs) the *great Manager* and Agent, for 30 Years together, from 1701 to 1732, in *all the Penſilvania Affairs*. He was ſo, and what does he ſwear? Why, that, in the Year 1724, my Lord *Baltimore* had, before him, the *faireſt and largeſt Manuſcript Draft* of the Peninſula that *he had ever ſeen*, and that it had *many different Lines* drawn upon it Eaſt and Weſt; And what does my Lord himſelf *now* ſwear, in his own Anſwer, about *this* Map? Why, that he took it, as the *firſt* that came to hand. The *firſt!* why then, from the 3d of *June* 1731 to the 10th of *May* 1732, he had Time enough to have lookt for the *ſecond*, or *ſome* of his *others*.

So that, whatever *ſeemed*, my Lord *really had other* Information; nor does Mr. *Sharpe* pretend that he had not, for, hitherto, he only ſays that, at *thoſe two* particular Meetings in *July* or *Auguſt* 1731, my Lord ſeemed *principally* to rely; but what had he *before*, or *after*, down to 10th *May* 1732?

And beſides, what ſignified it what he relied on, juſt *then*, when they were ordering Deeds? The *Agreement*, and the *Places* where the Lines were to be run, had been *before* agreed, and they *then* met to direct the proper *Deeds and Inſtruments*, Not to ſettle what ſhould be the *Bounds*. And my Lord had *then* brought a *Sheet*, all of his own Hand-writing, of *particular* Directions, from what *Places*, how *far*, and in *what manner*, *every one* of the Lines ſhould be run.

What Colour of *Reaſon*, or Foundation, does Mr. *Sharpe* aſſign for his *Belief* that my Lord was *then*, as to his own Knowledge, an entire Stranger to, and *wholly unacquainted* with, the Situation of his Province, whereof he has been Proprietor ever ſince the Year 1715? *None* in the World. The *Reaſon* of the Thing is againſt him, a Province, out of which an immenſe Revenue, of near 8000 *l. Sterling per Annum* is ſcrewed, was worth his informing himſelf about: eſpecially as it had for 50 Years before been in *perpetual* Conteſt, and as there had been *two* Applications about it, to which this preſent Lord *Baltimore* himſelf was a Party, *viz.* in 1717, and again in 1725, by the Earl of *Sutherland*; and this Lord himſelf had made one *temporary* Agreement, with *Hannah Penn*, before, about it, in 1723. And, whoever it was *firſt* ſet on foot the Treaty, yet, my Lord agreed to *meet*, and did *meet*, about a *perpetual* Agreement; And yet, contrary to the *Reaſon* of the Thing, Mr. *Sharpe believes:* —— But he believes contrary to the *Evidence* of the Thing alſo; for Mr. *Logan* ſwears, and my Lord, plainly enough, alſo ſwears, that my Lord had *other* Maps long before; In which Caſe (let who will *believe* it) yet my Lord *could not be an entire Stranger*, or *wholly unacquainted* with the Situation of his own Province.

A Perſon may repeat a Gingle of Words till he loſes himſelf, which is the Caſe here; Mr. *Sharpe*, *at firſt*, ſaid my Lord ſeemed *principally* to rely on the two Maps and the Plaintiffs Information. And, upon a *ſecond Repetition* of the Words, he makes them a little *ſtronger*, that my Lord ſeemed *entirely* to rely on them. But which could not be true, (that he *did* ſo entirely *rely*) however it might *ſeem* to Mr. *Sharpe*, as before obſerved.

Mr. *Sharpe*, *very civilly and reſpectfully* to his Client, ſays, he *believes* that Map was drawn in *Penſilvania*, ſent from thence to my Lord's Agents in *Maryland*, and by them ſent to my Lord; (ſo that he, himſelf, believes my Lord's Agents were the Perſons that ſent that Map to my Lord, which is ſomething) and he adds further, his Belief, that the ſaid Map was very incorrect and faulty; and he gives his *Reaſon* now, for all *this Belief*; for, my Lord has *told him ſo*. I fancy, when he has read the *Proofs*, and ſeen how groſsly my Lord's Anſwer upon *Oath* is falſifyed, in a *great Number* of Particulars, he will not be ſo civil as to *believe* what my Lord *ſays*, another Time.

Mr. *Sharpe* ſays (according to his Remembrance and Belief) there were Conceſſions *mutually made* on each Side; why ſo my Lord ſays in his Anſwer; but, tho' we moſt preciſely *interrogate* him by our Bill, and *particularly* demand that he ſhould inſtance what *one Thing* we inſiſted on, that he agreed to? Or what one ſingle Thing which he inſiſted on, we did not agree to? We are ſo unfortunate, that neither from my Lord, nor his Sollicitor, can we obtain the *leaſt* Anſwer *what* thoſe Conceſſions *were?* And Mr. *Sharpe* muſt forget, (he ſeems to have forgot, even whilſt penning his Depoſition) that the Meetings *he was at* were to give Orders for preparing the *Deeds*, ſo that the *Bounds* and *Limits* had been all agreed to and ſettled, *before* ever he was called into the Matter; and *that* was not the Time for making *Conceſſions* to each other, upon the *Merits* of the Agreement, when Mr. *Sharpe* came in to the Affair; and, if he does not mean Conceſſions *in that Senſe*, he at beſt but *trifles*.

As to the reſt of Mr. *Sharpe*'s Depoſition it confirms that of *Paris*, and particularly as to my Lord's own drawing of the Lines upon his own Map, his giving a Paper of Notes, *&c.*

There's one Obſervation more to be added; Mr. *Sharpe* ſays that *Paris* ſeemed *more preſſing* to forward the Agreement than my Lord, and ſo ſays *Paris* alſo; and there were *two* Reaſons for it. 1. My Lord himſelf, as it is plain, wanted Time, to hear from *America*. And 2. *Paris*, by Experience, would adviſe every one, who has any thing to do, in Concurrence with Mr. *Sharpe*, to do it all by themſelves, if they deſire it ſhould be done ſpeedily.

The Paper of my Lord's Notes, *of his own Hand Writing*, now (happily for us) brought to light *again*, does moſt groſsly falſify my Lord's Anſwer. We had moſt *particularly* in our Bill charged that Paper, and, ſpeaking of the extravagant Pretenſion of his Commiſſioners, that the Circle was only to be *two* Miles from *Newcaſtle*, we had charged that it appeared, *by his own* written *Notes* or Propoſals, in *two ſeveral Places* of the ſame, that he *himſelf*, not only *agreed*, but *propoſed*, under his own Hand, that the Circle ſhould be twelve Miles *diſtant* from *Newcaſtle*, and, a ſecond Time, 12 Miles *from Newcaſtle*. He has the unuſual Daring, notwithſtanding ſo *preciſe* a Charge, to deny, upon his Oath, *Fol.* 362. that he *ever* meant or intended that the Circle ſhould be ſuch an one as that the Semi-Diameter ſhould be twelve Miles. I never ſaw ſo groſs a P——y; I muſt *now* call it by that flat Term.

And if Mankind are at Liberty thus to ſwear away their own Agreements, and their own Hand Writings, there is no ſuch Thing as dealing with them.

John Sharpe [*Lib.* F. *Fol.* 14. *Int.* 6. *Fol.* 45.] Saith he hath looked upon the ſaid *Parchment Writing*, now alſo produced, marked with the Letter (G) and purporting to be Articles of Agreement, between the ſaid Defendant and the Plaintiffs, and that this Deponent *was concerned* for the Defendant, as his Sollicitor, in *preparing and ſettling* of the Draft of the ſaid produced Parchment Writing or Articles of Agreement marked (G); but ſaith that he this Deponent was *no otherwiſe* concerned in *forming and making the ſaid Plan*, or Map, printed or ſtamped on the ſame, than by *once* going to the ſaid Mr. *Senex*, the Perſon who was agreed upon by all the Parties *to engrave the ſame*, to let him know that the ſaid Lord *Baltimore* deſired that *he would prepare the ſame*, as well on his the ſaid Lord *Baltimore*'s Behalf, as on Behalf of the Plaintiffs; and that, to the beſt of this Deponent's now *Remembrance* and Belief, this Deponent attended the ſaid Mr. *Senex*, *but once*, in relation to the *engraving* the ſaid Plan or Map; and that he the ſaid Mr. *Senex* was, *principally*, attended thereon by the ſaid Mr. *Paris*, the Plaintiffs Sollicitor, on Behalf of the ſaid Plaintiffs, as this Deponent *believes*.

So that he was with Mr. *Senex twice*, *at leaſt*; once, to deſire him to *prepare* the Map. And *at leaſt once*, in relation to the *engraving it*.

He does not mention a Word about Mr. *Senex*'s *Opinion*, one way or other; tho' my Lord, in his *own Anſwer*, admits Mr. *Senex* did give his *Opinion in Writing* upon the Draft of the Articles.

Mr. *Sharpe* likewiſe *omits* to mention his own laying the Draft before Serjeant *Wynne*.

The ſame [*Int.* 7. *Fol.* 48.] That the *firſt Draft* of the ſaid produced Articles marked with the Letter (G) was prepared on Behalf of the Plaintiffs, by the ſaid Mr. *Paris*, their Sollicitor, as this Deponent verily believes; the ſame having been delivered to this Deponent by the ſaid Mr. *Paris*, as prepared by him; and this Deponent ſaith that there were *ſeveral Alterations* made, in *the ſaid Draft*, after the ſame was ſo prepared by the ſaid Mr. *Paris* as aforeſaid, *ſome* of them by the *Plaintiffs* or their Agents, and *others* by the Defendant *or his Agents*; [in the plural Number] but this Deponent ſaith that the Clauſe, in the ſaid produced Articles, relating to the making the ſaid Agreement void, if, for want of a ſufficient Quorum of the Commiſſioners not attending from time to time, the Lines, thereby directed, were not run, within the Time thereby limited, and, for the Parties, whoſe Commiſſioners made ſuch Default, forfeiting 5000 *l.* was *one* of the ſaid Alterations, and was, to the beſt of this Deponent's now *Remembrance* and Belief, propoſed by the ſaid Mr. *Paris*, on the Plaintiffs Behalf, and agreed to by the Defendant, as what appeared to be for the *mutual* Benefit and Advantage of both Parties; and ſaith that, to the beſt of this Deponent's now Remembrance and Belief, there was not any Objection made, on either Side, to *the ſaid* Alteration, or any *material* Objection to any *other* of the Alterations, that were propoſed by either Side, to be made *to the ſaid Draft*; *all* the Alterations which were ſo made, being conſidered, by each Side, to the beſt of this Deponent's now Remembrance and Belief, *reaſonable and neceſſary*.

Here ends Mr. *Sharpe*'s *whole* Account of the *Treaty*, and the *Articles of Agreement*.

But he is ſucceeded by a Gentleman who really knows *leſs*, but ſpeaks *more*, by a great deal, than Mr. *Sharpe*.

Samuel Ogle [*Lib.* G. *Fol.* 218. 1ſt original *Int. Fol.* 218.] That he has been well acquainted with the Defendant in this Cauſe *upwards of* 20 *Years*, and ſaith that he hath ſeen the Plaintiffs in this Cauſe *once*, but is *not well acquainted* with them.

He is ſworn to ſpeak the *whole* Truth, ſo I ſuppoſe he ſaw the Plaintiffs *but once*, and we ſhall ſee how much he *knows* their *Hearts*, at firſt Sight of their *Faces*.

The ſame [*Int.* 13. *Fol.* 219.] That the Defendant, the Lord *Baltimore*, *about the Year* 1730, *frequently mentioned* to this Deponent, that his Governor of *Maryland* had many Complaints to him, of Encroachments being made on the Province of *Maryland*, by the People of *Penſilvania*, countenanced by the Governor of *Penſilvania*, that the Defendant was reſolved to take ſome *legal Courſe* with the Proprietors of *Penſilvania* to put a ſtop to the ſaid Encroachments, *ſince they would not do any thing by fair means*; (* 1.) and, *ſome time after*, this Deponent went to *Ireland*, and ſtaid there *ſome time*, and *after his Return* from *Ireland*, and *in the Year* 1731, enquired of the Defendant concerning *his Suit*, relating to the ſaid Affair? Whereupon, the Defendant, then, *informed* him, that the Proprietors of *Penſilvania* had applied to ſettle the Diſputes aforeſaid *amicably*, by a Treaty; and that, in the Year 1731, this Deponent *caſually* meeting the Defendant, he acquainted this Deponent that he was, *that Evening*, to meet the Proprietors of *Penſilvania*, at the *Bedford Head* Tavern, near *Covent Garden* in *London*; and the ſaid Defendant then *deſired* this Deponent to be *with him*, at the *ſaid Meeting*; and ſaith that he *was preſent*, at the ſaid Meeting, and that the Plaintiffs and the Defendant were alſo *all then preſent*; and that, at the *ſaid Meeting*, it *appeared* to this Deponent, that the Defendant was *very ignorant* of the Subject Matter in Diſpute; and that the Plaintiffs *took great Pains to perſuade* the Defendant *that they were equally ignorant*; and that, on the Defendant's *ſhewing* his Ignorance, in relation to a Map or Plan of *Maryland* and *Penſilvania* which lay on the Table, one of the Plaintiffs ſaid, my Lord, *we are all ignorant alike*, (* 2.) And *what we do is a good deal in the dark*, but it may be *as well for one Party* as the other, and what we are doing is for the ſake of Peace, (* 3) or Words to that Effect; And this Deponent further remembers that, at the aforeſaid Meeting, the Plaintiffs *inſinuated* to the Defendant, that they, the Plaintiffs, were *ſenſible*, what they were doing, *would be contrary to the Opinion of their, the Plaintiffs, Friends in Penſilvania*, and *particularly to Mr. Logan*, and that, they were *told*, ſome of the *richeſt and beſt peopled Lands* in *Penſilvania* would, by the Treaty they were then upon, fall to the Defendant; (* 4.) All which he, the *more particularly remembers*, becauſe, it made a great Impreſſion upon him at the time, and cauſed him *then* to think that the Plaintiffs were *great Maſters* of the Art of Diſſimulation (* 5.) And, when he came to *America*, and found how *diſadvantageous* a Bargain the Defendant had afterwards made, and the *great Rejoicings* in *Penſilvania*, (* 6) upon the Account of the Agreement entered into between the Plaintiffs and the Defendant, this Deponent *often reflected* on what paſt at the Meeting aforeſaid, and *recollected the ſeveral Paſſages of the Diſſimulation of the Proprietors* of *Penſilvania*, in the Tranſaction aforeſaid. And what made this Deponent *further reflect* upon what paſſed at the Meeting aforeſaid was, *upon reading the Copy of the Bill* exhibited in this Cauſe, he

he found it therein *inſinuated*, as if the Defendant was aſſiſted *by this Deponent* his Governor in the making of the *Articles in the Bill aforeſaid*, which really *is untrue*; for that this Deponent neither *did*, nor *could*, give *any* Aſſiſtance to the Defendant in the Affair, becauſe he *then* was really unacquainted with the *Nature* of the *Diſpute*, and was *not preſent at any other* Meeting, than that before mentioned, as he can recollect; and further, ſaith, that he *cannot recollect any other* Subſtance of the Propoſals, Objections or Obſervations, which were made uſe of at the Meeting aforeſaid, than what he has before depoſed and declared.

The ſame to the laſt Gen. Int. fol. 244.] That he *knows* (*7) the Defendant, at *the time he entered* into the *Agreement* mentioned in this Cauſe, *was wholly unacquainted*, and *ignorant, of the Boundaries* of the Provinces of *Maryland* and *Penſilvania*, and *every thing* (*8) *relating thereto*, and *was very ill informed thereof* (*9) *from* Maryland.

1. This Perſon, whatever he is for a Governor, is yet a very bad Witneſs for my Lord; for he knows abundantly *too much* for any *mortal* Creature to be capable of knowing. But the Heat of his Zeal hath tranſported him beyond his Diſcretion, and he has, unwittingly, *added* to our Proof, that *the Treaty was began at the Requeſt of my Lord*. We charge by our Bill that it was ſo. My Lord utterly denys it, and ſays *we* ſollicited *him* to it. Nay, he is profuſe in the Uſe of his Words, we *frequently*, *repeatedly*, and *earneſtly* made Applications to him; but how? Where? When? By what means? Did we apply by any Friend to him, who was the Perſon employed? Did we write any Letter to him, where is the Letter? My Lord begs to be excuſed from *telling any one Particular*, or *proving any one Particular*, of our *frequent*, *repeated*, and *earneſt* Applications to him. (Juſt in the ſame manner as about the *Conceſſions*; which he tells us alſo, in *general* Terms, that he made to us.) He ſays we deſired the Treaty. But *Paris* proves that my Lord began it, and he gives the *Particulars* of it, and *withal*, a *very ſtrong* Circumſtance for *his* remembring it, as he conſidered that *that* Agreement with my Lord, might contribute to *another* Agreement, he had been *long* labouring to bring about, for his *then Client William Penn*, the Heir at Law. But this is, yet, only *one* Witneſs againſt my Lord's Anſwer. But now, how ſtrongly does Mr. *Ogle* confirm it? He ſwears, my Lord told him, that *we would not do any thing by fair means*, and *therefore*, my Lord was reſolved that he would take a *legal Courſe*; and ſo, I ſuppoſe, he did; for, afterwards, *Ogle* enquired of him, what was become of his Suit? Now, my Lord *could not* ſay *we would do nothing* by fair means, unleſs *he had tried* fair means. And *that* is the *very* Account, which *Paris* gives; That my Lord firſt deſired the Treaty; That, at the *two firſt* Meetings, the Plaintiffs thought his Demands *too high*, and would *not* agree to them; That the Treaty broke off thereupon, and my Lord immediately, on 1 *July* 1731, preſented a Petition to the King.——So here are, now, *two* Witneſſes that my Lord *began* the Treaty. Nor will the Matter reſt *here*, (*Paris* being a little more cautious of what he ſwears to, than the Defendant ſeems to be) my Lord in his Anſwer can't remember the *particular Days* he met, but admits ſeveral Meetings were had between the 11th *June* 1731, and 10th *May* 1732. Let us next ſee *the Petition* which my Lord preſented to the King, on the firſt of *July*, (when, as *Paris* ſays, the Treaty was broke off) and that Petition, being a *written* Paper, will not lie for *either* Side. Why his Petition ſets out the Charter of *Maryland* to his Anceſtor, and the Charter of *Penſilvania* to Mr. *Penn*; That ſeveral Diſputes had ariſen, about the Northern Bounds of *Maryland*, and that frequent Application had been made to the Crown, to aſcertain the ſame, in the Years 1685, 1708, and in 1720, and divers Letters and Orders had been ſent from the Crown, for that purpoſe, but *they* had *hitherto*, had *no* Effect; That, by Reaſon of thoſe Diſputes, very great Numbers of *his own* Tenants refuſed to pay *any Rents*, or *ſubmit themſelves* to *his* Government, which occaſioned frequent Diſputes; and now, upon this Caſe, which he made, what was his Prayer? Why, that *the King would order* the *Penſilvania* Proprietors, *to join with him*, in ſettling the ſaid Boundaries; and, if they refuſed to comply *therewith*, or that the ſame ſhould not be ſettled within a Twelvemonth from that time, that then, *the King would hear* the Matter in diſpute, and *make* ſuch *Determination* as to him ſhould ſeem meet.

I think it is *impoſſible* to give a ſtronger Proof than this, that it was my Lord that *wanted* and *deſired* the Agreement, for thoſe *very ſtrong* Reaſons which he gives in his Petition, and could not *then* get us into his Terms, and *therefore* petitioned the King, to *order us to agree*, in order to *terrify* the Plaintiffs, by the Expence of a *new Application* in Council, into an Agreement, *he* ſo much wanted; and, of which his new Petition (as *Paris* ſays) he immediately ſent Mr. *Penns* a Letter, that he had made ſuch an Application, which anſwered his Deſign and brought round the Meetings *again*.

But, even this is not all our Proof; for what ſays Serjeant *Wynne*, my Lord's ſtanding Council for his *Maryland* Affairs? Why he ſays this; That he was requeſted, *by the Defendant, to meet the Plaintiffs*, or their Agents, *to try if they could come to any amicable Agreement*, touching the Boundaries in Diſpute, That he was, *accordingly*, preſent at ſeveral Meetings, and the Parties did, *at length*, come to ſome Agreement; He ſays that this was requeſted of him, by the ſaid Defendant, as near as he remembers, about *May* 1731 or 1732. And it muſt be *May* 1731, for my Lord himſelf owns the Draft of the Agreement was prepared, and delivered over, 9 Months before *May* 1732, namely, in *Auguſt* 1731.

So that, here is a pretty good Outſet. *Three* Witneſſes, of which my Lord's own *Council* (whom he did not dare to examine) and his *Governor*, are two, and my Lord *Baltimore*'s own *written Petition* to the King, to falſify the *firſt Fact* in his Anſwer, which relates to the Agreement, and to prove that *the Treaty really was begun at his own Requeſt*.

And, if this is ſo, there are a Number of *trifling Incidents* that fall along with this Fact; for if he would *deſire*, and at laſt *oblige* us, (by a new Application in Council the Expence whereof we had declared a *Dread* of) to come into an *Agreement*, ſhall he now ſay, he had not lookt into *all* his Maps, or he did not *know* his Right?

2. Mr. *Ogle* makes the Plaintiffs to have ſaid, that they were *as ignorant* as my Lord. They have proved that they *muſt* be ſo; for it is in Evidence that they were *never* in *America* before the Agreement, and they *could* only have Maps from *their* Agents, as (now it's proved) my Lord had from *his*.

3. He alſo makes the Plaintiffs to have ſaid, that what they were agreeing to, was for the ſake of *Peace*. And if you pleaſe to recollect what a *very large* Diſtrict we have granted to my Lord, beyond the moſt extravagant of any his former Pretenſions, it muſt plainly appear that it was for the *Love* of *Peace*, or through *Inability* for *War* (and indeed *both* thoſe were their Reaſons) that they ſhould make an Agreement, ſo very diſadvantageous to themſelves.

4. He makes the Plaintiffs to have ſaid, that they had been *told*, that ſome of the *richeſt and beſt peopled Lands* in *Penſilvania* would, by that Agreement, fall to my Lord. They certainly *were told ſo*, and *did ſay* they were told ſo; And has any Mortal contradicted them? I am ſure I ſee not a *Syllable* to the contrary. And heartily wiſh my Lord would have mentioned that Fact in his Anſwer, and ſo have put it in Iſſue; In which Caſe, we ſhould have, moſt abundantly, proved that our Town of *Nottingham* (the moſt valuable Spot in our whole Province, (which Mr. *Logan* mentions to have been ſo cautious in granting out) is, by this Agreement, through the Miſinformation of our Surveyor who laid out that Tract, really fallen on my Lord's Side of the Line, into his Manors of *New Munſter* and *Talbot*, as we now find to our Sorrow, upon running the Line for temporary Juriſdiction which was ordered by the King in Council, pending this Suit.

5. Mr. *Ogle*, it ſeems, *then, at firſt ſight*, thought the Plaintiffs great Maſters of the Art of Diſſimulation. But why ſo? He ſwears he could not help my Lord in *the making of the Articles* (which, by the way, he was *never* charged with; *that* being a *wilful* Miſtake of his) for that he himſelf *then* was really unacquainted with the *Nature of the Diſpute* (thoſe are his Words); How *then* could he tell how much, or how little, the Plaintiffs knew; whether they ſaid true, or diſſembled; whether they did know a great deal, or were, as they pretended to be, really ignorant, of Matters, relating to a *Diſpute*, which this Man ſwears he, himſelf, did not ſo much as underſtand the *Nature of?*

6. He does not expreſly *ſay*, that there *were* Rejoicings in *Penſilvania* at the Agreement (nor no Mortal ever heard of any ſuch thing) but, *when he found* the great Rejoicings in *Penſilvania*, why *then* he reflected ſo and ſo.

7. We come now to remark *on three Facts*, not believed or apprehended by this Governor *Ogle*, but ſworn to, *abſolutely and poſitively*, in the ſtrongeſt manner that Words can expreſs; He *knows* the Defendant (and when too? why at the Time of *entering into the Agreement*, which was almoſt a Year after the *Treaty*) was *wholly* unacquainted and ignorant of the *Boundaries* of the Provinces of *Maryland* and *Penſilvania*, and of *every thing* relating thereto, and was *very ill* informed thereof from *Maryland*. If this were true, he makes his Principal an Idiot and a Natural; but this raſh Governor, out of his Over-Zeal for his Principal, and to curry Favour with him to continue in his Government of 1500 *l. per Annum*, has ſworn *poſitively* what no Human Creature *can know*, or *can poſſibly* ſwear, with an honeſt Conſcience. And it happens, unfortunately for Governor *Ogle*, that he has ſworn, what he had not ſo much as a *Chance* to have it happen to be true, but what is *abſolutely falſe*, and proved ſo *moſt notoriouſly*. For, to take one or two ſtrong Inſtances only, (and the firſt of which came manifeſtly from *Maryland* too) my Lord owns he delivered over his *new Clauſe*, about tha Line which run up the Peninſula South and North's interſecting of *Navigable Waters*; did he, by Chance, or Accident, draw that new Clauſe, of his own Hand, or was it thro' *ſome* Acquaintance and Knowledge, of the Boundaries, which was *one thing* relating to the Boundary?——But here is a *ſtronger* Inſtance, and an *earlier* Inſtance than that, that he moſt certainly *did* know *ſome* thing relating to his Boundaries; for here are his own *written Propoſals* and Deſcriptions under his own Hand, containing a whole Sheet of *Written Directions*, where, and from whence, and to what Parts, and how, all and every one of *the Bound* Lines ſhould run, which are abſolutely *impoſſible* to have been drawn up by a Perſon *wholly* unacquainted and ignorant of *every* thing relating to the Boundaries, which, yet, this moſt raſh Witneſs ſwears *poſitively* that my Lord was; ſo that one muſt be very preciſe with this Witneſs, and his Maſter too, who can thus ſwear away what is under their own Hand Writings.

* *William Barnes*, the Defendant's Witneſs only, [*Lib.* G. *fol.* 181. *Int.* 14. *fol.* 183.] That he is *acquainted with* ſeveral of the Places named in the printed Plan, but *knows nothing* of the Situation of Cape *Henlopen*; ſaith he hath *reaſon to believe* the Plaintiffs were *privy to ſome Miſtake in the Map or Plan*, on which the Articles in Queſtion in this Cauſe were founded, *before the Execution* of the ſaid Articles; and the *Reaſon* of *ſuch* his Belief was, that he being, with ſome of his Neighbours, (*viz. John Holiday* and *James Morris*) in Company with Meſſrs *John* and *Thomas Penn*, two of the Plaintiffs, at *Philadelphia*, ſome time after the arrival of the ſaid *John Penn*, a *Converſation* aroſe, concerning the Articles of Agreement aforeſaid, in which *Converſation* this Deponent acquainted the ſaid Plaintiffs, that he *had* heard, in *Maryland*, that the Lord *Baltimore* was *impoſed upon*, by ſome Miſtakes or Errors in the ſaid Plan; whereupon the ſaid *John Penn* replied, he *did not know*, but it *might be* an unjuſt Plan, but if *it was*, it was a *Plan of his the Lord* Baltimore's *own chuſing*; that they, the Plaintiffs, offered *him a Plan*, which they *believed to be juſt*, and which he had under his Conſideration, ſome time, but the Lord *Baltimore* refuſed to take the Plan the Plaintiffs *offered him*, and took one, which he ſuppoſed, was procured by the Lord *Baltimore*'s Friends.

This Witneſs has proved his holding Lands under the Plaintiffs in the Lower Counties; and proves nothing, from this, which fell, many Years after, in private Converſation, from Mr. *Penn*, but that Mr. *Penn* ſaid he did not *know* but my Lord's Plan might be unjuſt. Nor he certainly did *not*, but was *really* as ignorant, as he *pretended*, and could not poſſibly *know* any thing of the matter, having never been in *America*, to gain any *Knowledge*, unleſs his Birth, and ſtaying there to a Year and half old, could have given it.

But even this poor Account is very much varied and *ſoftened* by the next Witneſs my Lord examined, who was preſent at the *ſame Diſcourſe* with Mr. *Penn*, and relates it in a *fairer* manner.

John Holliday, the Defendant's Witneſs only, [*Lib.* G. *fol.* 170. *9th add. Int. fol.* 176.] That he hath heard *John Penn*, one of the Plaintiffs, ſay, that, after *the Draft* of the Original Agreement made between the Parties in this Cauſe *was drawn*, the Defendant, the Lord *Baltimore*, had the ſaid Draft a *long time*, for his Peruſal; and he this Affirmant *was preſent*, *when one* William Barnes mentioned to the ſaid *John* and *Thomas Penn*, that, it was *ſuggeſted*, there was ſome *Miſtake*, in the Plan or Map to the ſaid Articles; to which the ſaid *John Penn* then ſaid, if there *was a Miſtake*, it was taken from a Plan or Map *done by the Lord* Baltimore's *own People of* Maryland; and does not remember to have heard the ſaid *John Penn* ſay *any thing more* of the *Truth*, or Falſity, of the ſaid Map or Plan.

38.

Now we come to the Defendant's Proofs of what paſſed during the Time the Commiſſioners met in order to have *executed the Articles*.

Samuel Ogle, the Defendant's Governor, [*Lib.* G. *fol.* 218. *Int.* 15. *fol.* 231.] That he was *one of the Commiſſioners* appointed on the behalf of the Defendant, to ſettle the Boundaries between the Province of *Maryland*, and Province of *Penſilvania*, purſuant to the Agreement in queſtion, and that the Perſons appointed Commiſſioners with this Deponent, on the Defendant's behalf, on that occaſion, were *Charles Calvert*, *Philemon Lloyd*, *Benjamin Taſker*, *Matthew Tilghman Ward*, *Richard Bennet*, and *Michael Howard*. Saith that he is *no way intereſted* in the Event of this Cauſe, nor ſhall be any *ways prejudiced*, or benefited, by the Determination thereof; that this Deponent, or *any* other of the Commiſſioners aforeſaid, to his Belief or Knowledge, (*before the Doubt aroſe amongſt the Commiſſioners concerning the Centre and Dimenſions of the Circle to be run*) never did adviſe, perſuade, intreat, deſire, or by any means endeavour, to prevail upon the Defendant to fly from, or endeavour to avoid, the Agreement in Queſtion in this Cauſe; nor make any Propoſals, Declaration or Promiſe, by word of Mouth, or in writing, or otherwiſe to *the Defendant*, in order to influence or induce him, to evade the ſaid Agreement; and that this Deponent *believes he often mentioned to the ſaid Defendant the Diſadvantages* ariſing to him, by the ſaid Agreement; *but*, whether, *before the Doubts* aroſe about the Centre and Circle, he *is not certain*. That he never had, nor does not know of any Conference that the other Commiſſioners ever had, *with the Defendant*, (*before ſuch Difference in Opinion aroſe amongſt them and the other Commiſſioners*) in order to contrive or conſider how to evade the ſaid Agreement, or for any ſuch like purpoſe. That he did not propoſe, or receive, *any Advantage*, to himſelf, or knows of any Advantage, that any of the other Commiſſioners propoſed, or received, to themſelves, by the Agreement not being carried into execution. Saith that *he had a Warrant* for about 5000 *Acres* of Land, within the ſaid Province of *Maryland*, during the time of the *Commiſſion* for carrying the ſaid Agreement into Execution *was in force*, *which had not been taken up*; but knows not that any *other* of the Commiſſioners had Warrants to take up any Land. And this Deponent *apprehends* that the carrying the ſaid Agreement into Execution would have been *an Advantage* to this Deponent, in laying out of the Land in the Warrant mentioned; becauſe, by that means, the Land, *upon the Line*, would have become *more* valuable, and the Warrant might have been diſpoſed of to greater *Advantage*; whereas, becauſe the Lines were *not run*, no body cared to meddle with the Lands in diſpute, but they were chiefly inhabited by looſe idle Perſons, who paid neither Rent or Taxes, to *either* Government; and *that the Diſagreement of the Commiſſioners* about the Senſe of the Articles in queſtion, *was the Occaſion of their not being carried into Execution, as this Deponent apprehends*.

Benjamin Taſker, the Defendant's Witneſs, [*Lib.* G. *Fol.* 290. *Int.* 15. *Fol.* 293.] Saith he was *one of the Commiſſioners* appointed on the behalf of the Defendant for ſettling the Boundaries between the Provinces of *Maryland* and *Penſilvania*, purſuant to an Agreement between the Plaintiffs and Defendant, and that his Excellency *Samuel Ogle* Eſq; *Charles Calvert*, *Philemon Lloyd*, *Michael Howard*, *Richard Bennet* and *Matthew Tilghman Ward* Eſqrs; were joint Commiſſioners with this Deponent on that Occaſion; and that he is no

manner

manner interested in the Event of this Cause; that neither he, or any other of the said joint Commissioners with him, or any other Person, to his Knowledge, at any Time (*before the Doubt arose* among the said Commissioners at their Meetings, concerning the Center and Dimensions of the Circle to be run, in pursuance of the Agreement aforesaid) *did advise* or perswade, or by any other means, endeavour to prevail upon *the Defendant*, to endeavour to avoid the Agreement, in question, in this Cause, or make *any Proposal*, Declaration, by Word of Mouth or in Writing, *to the Defendant*, in order to influence or induce him to evade the same, or represent any Advantage, or Disadvantage, that would arise therefrom *to the Defendant*; that he neither proposed or to himself, and does not know that any other of the Joint-Commissioners appointed with this Deponent aforesaid did propose or receive, any Advantage, to themselves, by the Agreement's *not* being carried into Execution. That he had *no Warrant* for taking up Lands within the Province of *Maryland* aforesaid, during the Time the *Commission* aforesaid was in Force, but hath heard, that the present Governor of *Maryland*, and *Charles Calvert aforesaid, each*, had Warrants for about 5000 Acres of Land; which he has likewise *heard* were located, *during the Commission* aforesaid, very far to the Southward of the Disputed Bounds, upon Lands of very little Value. That he knows of *no other Cause, that obstructed the carrying the Agreement aforesaid into Execution, but the Disagreement of the Commissioners upon the Construction of the Circle aforesaid.*

John Ross, the Defendant's Witness only, [*Lib.* G. *fol.* 303. *Int.* 15. *fol.* 308.] That he was *one of the Commissioners* appointed by the *Governor* of *Maryland*, on the behalf of the Defendant, in the Room of *Charles Calvert* Esq; *deceased*, for executing the Articles in question in this Cause, and that his Excellency *Samuel Ogle*, *Matthew Tilghman Ward*, *Benjamin Tasker*, *Michael Howard*, *Edmund Jennings* and *James Harris* Esqrs; were Joint Commissioners on that Occasion, with this Deponent, and saith that he is *no manner interested in the Event* of this Cause, and that he this Deponent *never did*, nor does he know that any other Person did, advise or perswade *the Defendant* to endeavour to avoid the Execution of the Agreement aforesaid, nor does he know of *any* Meeting had, by any of the Commissioners, *with the Defendant*, for *that purpose*; and that he neither proposed, or received, any Advantage to himself, nor does he *know* that any other of the Joint Commissioners with this Deponent proposed, or received, any Advantage to themselves, by the said Articles of Agreement's not being carried into Execution; saith that he had no *Warrant* to take up Lands in the Province aforesaid, during the Time the Commission aforesaid was in Force, but his Excellency the Governor aforesaid had, to the best of his Remembrance, *during that Time*, a Warrant to take up about 5000 Acres of Land, in the Province aforesaid, and that the same was, as this Deponent has *heard*, located in *Ann Arundel* County, about 18 *Miles from* Annapolis aforesaid, and that the carrying the said Agreement into Execution, would have been no *Disadvantage* to the *Effect* of the said Warrant; and that he *believes the Difference in Judgment* among the Commissioners on the behalf of the Plaintiffs and the Defendant, *about running the Circle* round *Newcastle, prevented the carrying* the Articles in Question into Execution.

The Defendant had, in all, *ten* Commissioners, of which he chose to examine only *two* of those *seven* who were originally appointed, and *Ross* for a *third*, who was only appointed at the *latter* End of the Affair, and met on 3d *September* 1733, for the *first Time*.

All of them swear, on my Lord's own Examination of them *again*, that *the reason*, why the Articles were not carried into Execution, was, the *Difference in Opinion* between the Commissioners.

So that the Pretence of waiting an Hour, on 3d *February* 1732, for our Commissioners, is out of the Case.

It's very observable that Governor *Ogle* swears he has *read* the present Bill.

In that Bill we had charged, *generally*, that my Lord and his Commissioners *did* contrive to *avoid* executing the Articles.

And surely, *Hugh Jones*'s own Account, of my Lord himself ordering him to post up, on the Borders, and to send to his Friends, in the Lower Counties, the printed Advertisement of 21 *March* 1732, *pending* my Lord's own renewed Appointment of the 15th of *February* for the Commissioners to meet at *Joppa* on the 7th of *May* then following, amounts to *Demonstration*.

Well, but Mr. *Ogle* affects to *answer* the Charges in the Bill; wherefore, *only* himself and *Tasker*, *two* of the *seven* original Commissioners, are to be examin'd; with the Addition of Mr. *Ross*, who came in, as aforesaid, quite at the *End* of the Affair.

But what a *Contrast* there is, between those two *old* Commissioners who *were in* the Secret, and Mr. *Ross*, who came in late, and *was not* in the Secret?

Mr. *Ross* denies *generally*, and honestly, that he knows of *any such* Contrivance *at all*.

But what say *Ogle* and *Tasker*? Why they most absolutely, deny, *at first*, any such Contrivance used—*before the Difference* arose between the Commissioners about the Center and the Dimensions of the Circle. Why that happened in *October* 1732. So that here is a Negative pregnant.

But it does not rest *here*, for, in the same Breath, Mr. *Ogle* owns, he did *often* mention, to the Defendant, the Disadvantages arising to him from the Agreement, but whether he did so, *before those Doubts arose about the Centre and Circle*, he is *not certain*.

Again, he denies, in the self *same* manner, any Conference *with the Defendant*, in order to consider *how* to evade the Agreement, at any Time *before the said Doubts arose*. Why it was *impossible* he should have any *before*; for the Doubts arose in *October*, and my Lord swears he did not arrive there till 14 *November*.——But is this an answering of the *general* Charge in our Bill?

Well, we had *again* charged that my Lord's Commissioners, whom he appointed to execute the Articles, were possessed of Warrants, *at large*, for great Quantities of Land.

My Lord *denies* that he knows, believes, or ever heard, of *any* such Matter.

Yet, with this *short* Examination, it comes out, *affirmatively*, that *Ogle* and *Calvert*, two of his Commissioners, had, *each* of them, Warrants for 5000 Acres, or more, during the Commission. And I suppose that's the *Reason* they examined *no more* of their Commissioners.

I observe Mr. *Ogle* (who must *best* know) does not *pretend* that his Warrant is *located*; but the *two others* are made to say, that they have *heard* (not that they *believe* it) that Mr. *Ogle*'s Warrant is located.

Mr. *Ogle apprehends* (which is not a legal Word for a Witness upon Oath) it would have been an Advantage to him, to have had the Articles executed; for then the Lands, just upon the *Line*, might have been more valuable; but no body else can *apprehend* so, even if such Lands had been *vacant*, which they are not; for their own Witnesses tell us they are surveyed already, into *large Manors*, *New Munster*, and *Talbot* Manors, which extend part of them *above* the Line. And surely, the *larger* Field a Man has to chuse out of, the better Land he may help himself to, especially, in the Case of this Governor, who so gravely contended, that *wherever* a *Maryland* Warrant is located, the Place *ipso facto* becomes a Part of *Maryland*.

Mr. *Ross*, in endeavouring to add to, takes off from, the little Force there was before; for he says that he has heard that executing the Agreement would have been no Disadvantage to the *Effect* of the Warrant; why, no to be sure; the *Effect* of the Warrant was, to grant him 5000 Acres at large. And that *Effect* is equally answered, by laying them out in *one* Place, or in *another*. So that, it is plain, these People are quibbling, and disguising the Truth, instead of speaking out fairly and openly.

39.

Hugh Jones, of *Maryland*, Clerk, the Defendant's Witness, [*Lib.* G. *fol.* 4. *Int.* 8. *fol.* 13.] Says the Paper Exhibit N° 2. is *a Copy* of a Question and Answer, [about the Circle] and that his Name and Mr. *Rumsey*'s, subscribed to the *Original* of the same, were of their Hand-writings; and says that he and *Rumsey* were appointed, on *Fryday* 2d *February* 1732, to attend the Governor of *Maryland* and the other *Maryland* Commissioners; and the said Governor of *Maryland*, *the same Day*, acquainted the Deponent there had been Disputes between the Commissioners, on each side, concerning the Terms mentioned in that Question, and that they had agreed to take the Opinion of *Surveyors* on each part. And, then, he proposed the said Question, to be answered by the Deponent and *Rumsey*, which they did, in the manner mentioned in the Exhibit. The *Original* of which Exhibit was, the next Morning, delivered to the Governor of *Maryland*. And the next Day, being *Sunday*, the Deponent was obliged, and accordingly left the Commissioners on *Saturday*, to attend his Cure in *Maryland*.

William Rumsey, of *Maryland*, the Defendant's Witness, [*Lib.* G. *fol.* 129. *Int.* 8. *fol.* 134.] Also proves that this is *a Copy* of the Question put to, and the Answer signed and given by Mr. *Jones* and himself, and delivered to the Governor of *Maryland* on 3d *February*. And says he also, on that Day, returned homeward, but does not remember any particular Business required it.——Says he was acquainted with *Robert Charles*, and has seen him write, and believes his Name subscribed to the original Paper was his Hand.

Note. How very natural it would have been, for *either* of these two Gentlemen, to have said *one Word*, that he *believed*, or he *judged*, or *thought*, that was a *Right Opinion* on the Question; but they do not say a *Syllable* of that sort, and indeed, it was a most *shameful* Answer they gave.

Benjamin Tasker, of *Maryland*, the Defendant's Witness, [*Lib.* G. *fol.* 290. *Int.* 8. *fol.* 291.] Proves the said Exhibit is a true *Copy*, and that he has examined and compared it with the *Original*, and he believes the Name of *Robert Charles*, subscribed to the Original of it, was of *Charles*'s Hand-writing, who was one of our Commissioners.

John Ross, of *Maryland*, the Defendant's Witness only, [*Lib.* G. *fol.* 303. *Int.* 8. *fol.* 304.] Proves also that the said Exhibit is a *true Copy*, which he has examined and compared with the Original.

So that here is—*great Caution* to prove only *a Copy* of this curious Paper, which the Governor of *Maryland* keeps the *Original* of, and does not produce, and which the two Persons who framed that Original, are ashamed to say that they *themselves* thought to be *a true* or *right* Answer to the Question proposed to them about the Dimensions of the Circle; altho' they swear to their Opinion about the *Extent* of my Lord *Baltimore*'s Charter.

40.

My Lord cross-examined two of our Witnesses to prove the *Extent of* Newcastle *Town*.

Elizabeth Morris, [*Lib.* H. *fol.* 26. *Int.* 6. *fol.* 28.] She has been at *Newcastle* Town, but has taken so little Notice of it, that she can give no Account of its Extent, either as to Length or Breadth.

Thomas James, a Pilot, aged 49. [*Lib.* H. *fol.* 12. *Int.* 6. *fol.* 16.] Is acquainted with the *Town* of *Newcastle*, situated in one of the three Lower Counties, but knows not in which, being unacquainted with the Divisions thereof. He believes the said Town, in its *Buildings*, is about half a Mile in Length, and half a Mile in Breadth, but whether the *Limits* of the Town extend *beyond* the Buildings of it, or not, does not know.

41. *Samuel Ogle*, the Defendant's Governor, [*Lib.* G. *Fol.* 218. *Int.* 17. *Fol.* 237.] That the *first Time the Defendant* had any Account, of the *Proceedings* of the Commissioners, for settling the Boundaries of the Provinces of *Maryland* and *Pensilvania*, pursuant to the Agreement in Question in this Cause, was, *after the Defendant's arrival in* Maryland; *apprehends* that the Defendant was not privy to, or apprized of, what the said Commissioners did, or intended to do, *before their first meeting* together to execute their Commission.

Why it was impossible he should; the Commissioners met 6, 7, 30, 31 *October*, and 1, and 2 *November*; all that while my Lord was on his *Passage*; for he swears he arrived in *New England* in *September*, and in *Maryland* on the 14th of the same *November*.

The same, [*Int.* 19. *fol.* 239.] That, to the best of this Deponent's *Remembrance*, when the Defendant was *first* informed of the Difference in Opinion between the Commissioners, touching the Circle to be drawn pursuant to the Articles of Agreement in Question in this Cause, the Defendant *declared*, he had *left the Affair to be settled by his Commissioners*, as this Deponent believes, that the Declaration aforesaid, was agreeable to the Intention of the Defendant.

The same, [*Int.* 18. *fol.* 238.] That he believes that *a Letter* was wrote, by the Defendant, during his stay in *Maryland*, to the *Governor* of *Pensilvania*; and that the Purport of the said Letter was *to propose a Meeting of the Commissioners* of the two Provinces at *Joppa*, *after the* Dispute had arose about the Commissioners of *Pensilvania* not meeting at *Newcastle* according to Adjournment; believes the said Letter was received by the *said Governor*, because the Commissioners of both Provinces *met*, *according to the Proposals* in the said Letter at *Joppa*.

Yes; and *pending* this Appointment of my Lord's, my Lord *himself* sends Parson *Hugh Jones*, his Mathematician, to post *printed Advertisements* on the Borders of the three Lower Counties, to draw off our Tenants.

A Worthy Action of the *Defendant*.

And a Worthy Action to be executed by that Tool of his, the Parson, to remove his Neighbours Landmarks, and draw off his Tenants.

42. *Samuel Hollingsworth*, [*Lib* H. *fol.* 29. *Int.* 1. *add. fol.* 33.] Our Witness cross-examined, says he has once been at a *Ferry* over *Susquehanna* River.

John Musgrave, our Witness also, but cross-examined, [*Lib.* H. *fol.* 34. *Int.* 1. *add. fol.* 38.] Knows something of *Susquehannah* River. Is not acquainted with the Mouth of it, but believes it falls into *Chesopeak* Bay. He knows four *Ferries* upon the said River, some of which he believes lie to the Northwards, and some to the Southwards, of the City of *Philadelphia*; but is unacquainted with the lower Parts of the said River. That the said River is, (where he is acquainted with it) generally about *one Mile wide*. Has *heard* that the said River is, *sometimes*, fordable, both to the Southward and Northward of *Philadelphia*.

So that, as long as there are *Ferries* at this River, that our Commissioners were not obliged to *swim* over it, there could not *possibly* be any *other* Inconvenience in going down to *Joppa*, in order to fix a Center in the middle of *Newcastle* Town. For this notable Examination is to be used to *that* purpose.

43.

Samuel Ogle, [*Lib.* G. *fol.* 218. *Int.* 16. *fol.* 237.]
Benjamin Tasker, [*Lib.* G. *fol.* 290. *Int.* 16. *fol.* 297.]
John Ross, [*Lib.* G. *fol.* 303. *Int.* 16. *fol.* 311.]
} All say that the Exhibit markt N° 7. contains a *full and true Account* of the Proceedings of the Commissioners for carrying the Agreement in Question into Execution, at their several Meetings had for that purpose. Only Mr. *Ross* speaks to it but from 3d *September* 1733, that being the *first* Meeting he was present at.

A very *concise* Way of giving their Account; whereas *we* have proved, by Examination in Detail, what pass'd at *every* Meeting, upon the 26 several Days; on many whereof the Commissioners met twice in a Day, Morning and Afternoon; and this is, *in Effect*, drawing up an Affidavit (or less) privately, and then swearing, before the Commissioners in the Cause, that that Paper, *ready drawn up*, is true; but which, surely, is not the Way of being examined in Chancery.

Samuel Ogle, [*Lib.* G. *fol.* 218. *Int.* 20. *add. fol.* 240.] That he was one of the Defendant's Commissioners for executing the Articles, and the Exhibit markt N° 8. and endorsed *Copies* of several Papers *exchanged* and delivered by and between the Commissioners, which he has carefully compared and examined with the *Originals* of which they purport to be

Copies

Copies, and they are *true Copies* of the *Originals*, and believes that the Originals, of which the Papers aforeſaid are Copies, were exchanged and delivered by and between the Commiſſioners on behalf of the Plaintiffs and Defendant; and believes all the Perſons who ſubſcribed their Names to the original Papers were Commiſſioners on behalf of the Plaintiffs and Defendant; and believes he has ſeen the Perſons whoſe Names are ſubſcribed to the Originals write their Names; and that their Names ſubſcribed to the ſaid original Papers are of their proper Hands. And believes that the original Paper of which the Part of this Exhibit mark'd N° 1. is a true Copy, is the Hand-writing of *Robert Charles*, one of the Plaintiffs Commiſſioners, having often ſeen him write, and received ſeveral Letters of his writing.

Benjamin Taſker, [*Lib.* G. *fol.* 290. *Int.* 20. *add. fol.* 298.] To the like Effect.

John Roſs, [*Lib.* G. *fol.* 303. *Int.* 20. *add. fol.* 312.] To the like effect, only he ſpeaks to thoſe only which were dated upon, or after the 3d of *September* 1733.

To be ſure, where the Defendant's Commiſſioners delivered Papers to our Commiſſioners, they could only prove *Copies* of *thoſe* Papers, ſo delivered *from* themſelves; but, as I underſtand theſe Depoſitions, they have not done *that*; for, they have kept in *Maryland* the original Papers which their Commiſſioners *received* from our Commiſſioners, and they have alſo kept the *original* Copies of the Papers which their Commiſſioners delivered to ours, and have ſent us only *examined Copies* of *both*, over here, as Exhibits.

44.

The Defendant's Proof of his *Application for a Grant in* Auguſt 1734.

John Sharpe, [*Lib.* F. *fol* 14. *Int.* 14. *fol.* 52.] *Knows*, and was privy to, the Application, made by the Defendant, to his Majeſty, for a *Confirmatory Grant of the* 3 *Lower Counties*, after the Execution of the Agreement; and the ſaid Application was made by Petition, by the ſaid Defendant, to his Majeſty in Council, which Petition was preſented, in the *beginning of the Month of* Auguſt 1734, to his beſt Remembrance and Belief as to the Time; and ſaith that the Defendant, and this Deponent apprehended and believed, that *two* of the ſaid Plaintiffs, as well as Mr. *Paris* their Agent and Sollicitor, were then in *England*; but ſaith that the ſaid Defendant, and this Deponent, were, *ſoon after*, *informed* that the Plaintiff *John Penn* had, ſome ſhort Time before, left *England*; but ſuch his Departure was in a private manner, and not publickly known; but that one of the ſaid Plaintiffs, and the ſaid Mr *Paris*, Agent or Sollicitor for all the Plaintiffs, were then, as this Deponent believes, in *England*; and ſaith that the Defendant did, (as the Deponent verily *believes*) apprize Mr. *Paris*, of his the Lord *Baltimore*'s Intention of making the ſaid Application, *before* he made the ſame; and ſaith that the ſaid Petition being, by order of Council, dated on or about 8th *Auguſt* 1734, referred to the Conſideration of the Lords Commiſſioners for Trade and Plantations, to conſider the ſame, and to report their Opinion thereon, the ſaid Petition and Order were, on or about the 28th of the ſame *Auguſt*, to the beſt of his Remembrance and Belief, as to the Time, laid before the ſaid Lords Commiſſioners; and, the very next Day, (as this Deponent verily *believes*) Notice was given, purſuant to their Lordſhips Directions, to the ſaid Mr. *Paris*, of the ſaid Petition being referred to them. And ſaith that, (as he *believes*) the ſaid Mr *Paris* had *due* Notice of all the Proceedings, which were afterwards had, on the ſaid Petition, *and appeared and attended their Lordſhips in oppoſing the ſaid Petition, both by himſelf, and Council, for and on behalf of the ſaid Plaintiffs*; and that one of the Plaintiffs, in Perſon, alſo, attended their Lordſhips thereon; and Mr. *Paris* preſented a very long Petition to his Majeſty in Council, on the behalf of the Plaintiffs, praying, amongſt other things, that the ſaid Petition of the ſaid Lord *Baltimore*, might be diſmiſſed.

Note, It is my Lord *Baltimore*'s Misfortune to have his Anſwer falſified by *every one* of his Witneſſes; for he ſwears (for once) the Truth, at *fol.* 392. That *Paris* delayed to lay the Plaintiff's Title before the Lords of Trade, from time to time, and at laſt declined it, or appearing in Support of their pretended Right, *and only ſtood by to take notice of what paſt, and what was offered by the Defendant and his Council*——And to the like Effect is ſaid by the Lords of Trade's Report alſo.

45.

The Defendant's Proof of Exhibits in *England*.

Hugh Hamerſley, Mr. *Sharpe*'s Clerk, [*Lib.* F. *fol.* 57. *Int.* 12. and laſt *fol.* 59.] Says that the produced Petitions, N° 1. 2. 3. 4. 5. 6. 7. 8. 9. are true Copies of the original Petitions remaining in the Council-Office, by him examined with the original Petitions there remaining.——And that the Papers annext to the ſaid Petitions, N° 1, and N° 3, are true Copies of the Papers annext to ſuch original Petitions, having carefully examined them——And that the Paper-Writings, N° 10. 11. 12. 13. 14. 15. 16. 17. are true Copies of original *Orders*, recorded in the Regiſter-Books of the Council-Office, by him carefully examined.——And that the Paper N° 18, is a true Copy of the original *Report* of the Lords of Trade, remaining in the Council-Office, with which he examined the ſame.——And that the Paper N° 19, is a true Copy of the *original Order*, whereof it purports to be a Copy, having carefully examined it with ſuch *original Order* at the Plantation-Office, as the ſame remains amongſt the old Records *there*; And that the Papers N° 20 and N° 21, are true Copies of the *original Papers*, whereof they purport to be Copies, having examined the ſame with the original Papers at the Plantation-Office, as the ſame remain lodged or depoſited there.——And that the Paper-Writing, N° 22, is a true Copy of the *original Bill* ſigned by Sir *R. Sawyer*, having compared the ſame therewith, as it remains depoſited at the Signet-Office, *Whitehall*.——And that the Words following (Expedited the 16th Day of *April* 1683, *per Morice*) wrote at the Foot of ſuch Copy, is a true Copy of an *Endorſement* on ſuch Original.——And that the Paper-Writing, N° 23, is a true Copy of an *Entry*, made and entred in a Book or Regiſter belonging to the Privy Seal Office at *Whitehall*.——And knows of nothing elſe that will make for the Defendant's Advantage, except that he has made *careful* and diligent *Search* and *Enquiry* at the Rolls-Chapple, and of Mr. *Henry Rooke* the Clerk of the ſaid Chapple, who has the Cuſtody and Care of the Rolls and Records there kept, in order to find out and diſcover whether any Grant or Letters Patent ever paſt the *Great Seal*, in purſuance of the ſaid Bill or Draft of a Grant N° 22, but has not been able to find any ſuch Grant amongſt the Rolls and Records of the ſaid Chapple, or any Enrollment thereof, and has been informed by Mr. *Rooke*, and believes to be true, that Mr. *Rooke* has made diligent Search, but has not been able to find the ſame, or any Entry or Memorandum thereof, in any of the Books or Regiſters belonging to the ſaid Chapple, and that he therefore believes no ſuch Grant ever did actually paſs the Great Seal, for that, if the ſame had paſt the Great Seal, *it ought to have been* regularly enrolled in the ſaid Chapple of the Rolls.

Note, As to his N° 19, the Plantation-Office is *not* the Place, but the Council-Office *is*, for *original Orders of Council*. I ſuppoſe *that* is the *Copy of the Order* about *Clayborne* and the Iſle of *Kent*; If ſo, am ſurpriſed that Mr. *Sharpe*, who knows the State of that Order full as well as I do, would let his Clerk call that unauthentick Paper at the Board of Trade the *Original Order*.

46.

We come now to the *Giſt* of the Cauſe. The Defendant, *fol.* 268, 269, ſays he *believes* the Plaintiffs, knowingly and deſignedly, took Advantage of his *Ignorance* and Want of Knowledge of the ſeveral Places mentioned in the Map or Plan, and of the proper Situation and Diſtances thereof, *for that*, in the ſaid Map, which was ſo made uſe of as a Guide in making the Agreement, there is a *Place* deſcribed and ſaid to be Cape *Hinlopen*, in which Place *there is no ſuch Cape*; And that *the* Place, deſcribed by the ſaid Map to be Cape *Cornelius*, is *the true* Cape *Hinlopen*, *originally ſo called by the Dutch*, and *ſo deſcribed* in *their* Maps; *Which* was a great Impoſition on the Defendant, and miſled him, in regard the Eaſt and Weſt Line, that was agreed to be drawn acroſs the Peninſula, was to begin, on the Eaſt Part of the Place in the ſaid Map called Cape *Hinlopen*; *but, ought to have been from that Place only*, which in the ſaid Map is called Cape *Cornelius*.

This being the *Deceipt* put upon him, by his own Map, I beg you would turn to his Map, and then take his own following Evidence, which do afford (I think) the very ſtrongeſt and cleareſt Evidence *againſt him* that the Plaintiffs themſelves could poſſibly wiſh or deſire.

Margaret Simpſon, aged 69. the Defendant's own Witneſs only. [*Lib.* G. *fol.* 194. *Int.* 12. *addit. fol.* 198.] Says that ſhe, about 46 Years ago, when ſhe lived in *Maryland*, heard of a Place called Cape *Henlopen* or *Inlopen*, *at or near Phenix's Iſland*; And hath, ſince her reſiding at *Lewis-Town*, heard of a Place called Cape *Cornelius* about 3 or 4 Miles from *Lewis-Town* aforeſaid, and of a Place called Cape *May*, *oppoſite to* ſaid Cape *Cornelius*; and that, near *Phenix-Iſland*, there was, as ſhe heard, a *Braſs or Copper Plate*, or *Braſs or Copper Nails*, *on a Tree*; and that, *for forty Years paſt*, ſhe has *often* heard the *People of Maryland* aforeſaid, and of *Suſſex County* aforeſaid, *diſpute*, and offer to *lay Wagers*, *ſome* that Cape *Henlopen* was near *Phenix's Iſland* aforeſaid, and *others*, that the Cape near *Lewis-Town* was *called* Cape *Henlopen*.

Note, To obviate that *very* Difficulty or Doubt, on account of the Name's being transferred, the Articles expreſs it, by a *double Deſcription*, Cape *Henlopen South* of Cape *Cornelius*.

John Fleaharty of *Maryland*, *Planter*, the Defendant's own Witneſs only, aged 102. [*Lib.* G. *fol.* 145. *Int.* 14. *fol.* 145.] He is acquainted with *ſome* of the Places named in the printed Plan; And that *he* never heard of *any* Place or Cape called Cape *Cornelius*, till within theſe 6 Months. But that the Place, markt in the ſaid Map for Cape *Cornelius*, is *the Place* where the *Whorekill* Town, ſettled by the *Dutch*, was built, oppoſite to Cape *May*, and is *the Place* this Deponent heard the *Engliſh* call Cape *Inlopen*. [Hitherto he ſeems not much *for us*, but he amply repays us] And that, to the *Southward* of *Indian River* and St. *Martin's Creek*, which St. *Martin*'s Creek is in *Somerſet* County in *Maryland*, there is *alſo* a Place called Cape *Henlopen*. That he is *not certain* of the *Diſtance* between the Places markt Cape *Cornelius* and Cape *Hinlopen*, but ſuppoſes, upon a direct Line, it is about 12 Miles.——This Deponent does not know how it came to be called Cape *Hinlopen*, but has heard that the *Dutch ſettled the Whorekills*, *before Maryland* or *Virginia* was ſettled by the *Engliſh*.

This *very antient* Witneſs ſets out finely for the Defendant indeed; He ſays the *Engliſh* call the upper Cape Cape *Inlopen*, but that there *is a Place*, where? *South of Indian River and St. Martin*, called Cape *Henlopen*, and that the *Dutch* ſettled firſt, before the *Engliſh*.

Charles Hilliard, aged 63, the Defendant's own Witneſs only, [*Lib.* G. *fol.* 158. *Int.* 14. *fol.* 166.] Knows ſeveral Places mentioned in the Plan which lie between the City of *Philadelphia* and *Lewes-Town*, which is near the Capes of *Delaware*, and that he has been at *Lewes-Town*, and has ſeen a Point of Land which is called the *Cape*, which lies on the other ſide of a Creek, but, being not ſkilled in Geography, can't ſay whether the Places laid down in the ſaid Exhibit are rightly delineated, or not.

The Same to the 12th additional Interrogatory, *fol.* 168. *Has heard* of a Place called Cape *Hinlopen*, which lies to the *Southward* of *Indian River*, near an *Iſland*, the Name of which he does not remember; The ſaid Cape was *firſt ſo called by the Dutch*; And that he has heard of the ſaid Cape *Henlopen* from his *Father*, who was a *Sea-faring Man*, and *lived at St. Martin's Creek* or River, near *Indian River* aforeſaid. ———This is better ſtill.

Martha Johnſon, the Defendant's own Witneſs only, uncertain of her Age, but believes 72. [*Lib.* G. *fol.* 210. *Int.* 12. *add. fol.* 212.] Lives near *five* Miles from *Lewes* Town, the way that is uſually rode. She *has heard*, that a Place, *very near* to where ſhe lives, was, *by the Dutch*, called Cape *Inlope*. And further ſays, that ſhe thinks ſhe has heard that a Place, *at Phenix's Iſland*, was called Cape *Henlopen*; but that the whole appears to her like *a Dream*.

Theſe are the *Defendant*'s Witneſſes, and his own Examinations.

John Miller, of *Somerſet* County in *Maryland*, *Planter*, aged 44, the Defendant's own Witneſs only. [*Lib.* G. *fol.* 271. *Int.* 14. *fol.* 272.] Has lookt upon the Plan. Is acquainted with *Delaware* Bay, and all the Sea-Coaſt, from *Delaware* Bay to the Capes of *Virginia*; having been ſeveral *Voyages* into the ſaid Bay of *Delaware*, and along the Sea-Coaſt. *He has taken an Obſervation at the Place markt Cape* Cornelius, *and found it to be in* 39 *Degrees and* 5 *Minutes North Latitude*.——That, in *all* the Sea-Charts and Waggoners which *he* has ſeen, the *ſaid* Cape was called by the Name of Cape *Henlopen*, *except* ſome few People in *Suſſex* County, who called it by the Name of Cape *Cornelius*.———Says, that, at the Place, markt in the ſaid Exhibit Cape *Hinlopen*, *there is no appearance of a Cape*, *either near or at a diſtance*, the Sea-ſhore *there* is near *ſtrait*, and *very low*. That the Place, called Cape *Henlopen* in the ſaid Exhibit, he apprehends, is intended for the Place called by the Inhabitants there *Phenix's Iſland*; tho' he thinks, it ought to have been laid down *more to the Southward than it is*, near the Midway between the Place markt Cape *Cornelius*, and the Southern Bounds of *Maryland*. Says, he believes it is from *Phenix*'s Iſland to Cape *Hinlopen*, markt Cape *Cornelius* in the Exhibit, along the Sea-ſhore, about 23 or 24 Miles. Says, that the Word *Henlopen* is a *Dutch* Word, which Language he does not underſtand.——Says, there are ſeveral Rivers and Creeks, along the *Sea-Coaſt*, and in *Delaware* Bay, which are *not* laid down in the ſaid Plan [whoſe Fault was that? It is not *our* Plan] particularly *Seny Puxen*, *Indian* River, and the *Whorekill* Creek.——That, near to the Place markt Cape *Cornelius*, in the ſaid Plan, there ſhould have been a *Bend*, and that, afterwards, it ſhould have been laid down *ſtraiter* than it is in the ſaid Plan.———That he has never read the Articles of Agreement between the Parties, but if the Southern Bounds of the three lower Counties were to be run, from *Phenix*'s Iſland, to the Middle of the Peninſula, deſcribed in the ſaid Exhibit, it would extend upon the *Poſſeſſions* of the Defendant, upwards of *eight* Miles to the *Southward*, and a conſiderable Space to the *Weſtwards*.

Suppoſing this was ſo, yet if the *South Bounds* went up ſo high as to the *upper* Cape, as my Lord contends, then *this* Witneſs allows it would extend 16 Miles upon the *Poſſeſſion of the Plaintiffs*, and others ſay 18 Miles; and we ſhall clearly account for thoſe 8 Miles this Witneſs talks of.

The ſame, to the 15th *add. Inter. fol.* 279. Has been acquainted with the Sea-Coaſt, *Delaware* Bay, and the Country thereabouts, deſcribed in the Plan, near 30 Years. *Believes* that, upon the Tract contained between the Place called Cape *Cornelius*, and Cape *Henlopen*, in the ſaid Plan (if Cape *Henlopen* in the ſaid Plan is intended to be at *Phenix*'s Iſland) extending the Lines, from *both* Places *Weſt* to the *Middle* of the Peninſula, does contain *about* 500 Families. [*Note*, He ſays this of the *whole* 23 or 24 Miles.] That *the* Inhabitants——to the *Southward* of *Indian* River aforeſaid, have lived under the Government of *Maryland*; And *the* Inhabitants——to the *Northward* of *Indian* River aforeſaid, have lived under the Government of *Penſilvania*.———Hath ſeen *ſeveral* Patents for Lands, from the Lord *Baltimore*, to the *Northward* of *Phenix's Iſland*, dated in 1677, and the reſt bearing Date before the Year 1684.——And has alſo ſeen *two* Patents from the Proprietors of *Penſilvania*, dated 1684, for Land *upon Indian River*, and on the *South* Side thereof. That ever ſince *he* can remember, [born in 1696] *the* Inhabitants, on the *South* Side of *Indian* River, have always paid their Quit-Rents to Lord *Baltimore*, and his Anceſtors, except during the time there was an Equivalent given by the Country to the Defendant for the ſame. And that *he* has *never heard* of any Quit-Rents being paid for *the ſaid* Land, or *any* of the ſaid three lower Counties, by the Inhabitants to the Plaintiffs, or their Anceſtors.

This

This is a *Planter*, who has made ſeveral *Voyages* into *Delaware* Bay; He ſays, he lives in *Somerſet* County, which is juſt below *Suſſex* County: and *Indian* River, indeed, is not eaſily croſt, without *a Voyage*. But he ſwears there is *no appearance* of a Cape at *Phenix*'s Iſland, either near, or at a Diſtance, *the Sea Shore is very low*. Now let us ſee how *their own next* Witneſs contradicts him, *as to that laſt Point*, and fortifies all our Witneſſes.

Boudoin Robins, of *Maryland*, *Planter*, the Defendant's own Witneſs only, aged but 34. [*Lib.* G. *fol.* 282. *Int.* 14. *fol.* 282.] Has lookt upon the Plan, and is acquainted with the *Sea-Coaſt* from the Capes of *Delaware* to the Mouth of *Cheſopeak* Bay, and from thence, with the ſaid Bay of *Cheſopeak*, as high as *Annapolis*. ——Says, that Cape *Hinlopen* ſhould have been placed in the Plan where the Place markt Cape *Cornelius* is, as *he apprehends*; for that he has been a *Coaſter*, *eight or ten* Years, and has *ever* underſtood *that* Place to have been Cape *Henlopen*, and has always heard *it* called ſo, by thoſe who ſpoke of it to *him*.——And that the Shore, from thence (excepting a *little* Bend *near* the ſaid Cape, about *five or ſix Miles* to the Southward of it) is generally ſtrait, and beareth South and by Weſt.——Says, he obſerves that *Seny Puxen* and *Indian* Rivers are not laid down in the ſaid Plan, and alſo *Choptank* River that runs into *Cheſopeak* Bay.——That he can't tell by *what* Name the Place, markt Cape *Hinlopen* in the Plan, is called by the Inhabitants, becauſe he does not know its Diſtance from the Mouth of *Delaware* Bay.——That, in ſailing *along* the ſaid Sea-Coaſt, towards *Delaware* Bay, *the Land* at *Phenix*'s Iſland, *is ſomewhat higher than the reſt of the Land about*; But that *no Cape* appears, till you come to Cape *Hinlopen* lying on the South-ſide of *Delaware* Bay, and markt in the Plan Cape *Cornelius*. [*Note*, There being no *real and true* Cape or Head-Land, is the very *Reaſon* for transferring the *old* Name to the Place where there is unqueſtionably *a Cape*. And this Witneſs tells you he is a *Coaſter*, and a *young* one too, of 8 or 10 Years.] He goes on, and ſays, he has *heard* it was called Cape *Hinlopen* by the *Dutch*, and that the Meaning thereof is inlap.——That he *thinks* the Cape, upon the *Eaſt* Side of the Mouth of *Cheſopeak*, is not truly laid down; and ſeveral Iſlands, Creeks, and Inlets, are omitted in the ſaid Plan, that lie in and run into *Cheſopeak* Bay.

The ſame, to the 15th *add. Int. fol.* 288. That, as there is neither Scale or River mentioned between the ſaid Places markt Cape *Hinlopen* and Cape *Cornelius* in the Plan, he cannot, thereby, find out whereabouts the Place, therein called Cape *Hinlopen*, is intended to be fixt; nor can ſay *how many* Families there are inhabiting betwixt that Place and the Place there markt Cape *Cornelius*; but always *underſtood* that *the* People as far *North as Indian River*, held their Lands under the Proprietary of *Maryland*.

Colonel *Thomas Colvil*, of *Maryland*, aged 50, the Defendant's own Witneſs only. [*Lib.* G. *fol.* 120. *Int.* 14. *fol.* 121.] Says, he is *not* well acquainted with the Bay of *Delaware* deſcribed in the produced Map; but has been *once* up and down the ſaid Bay. That he is *no otherwiſe* acquainted with Cape *Hinlopen*, than as is deſcribed in the Sea-Charts, or *Weſt-India* Waggoners.——That *he* has never heard of *any* Cape called *Cornelius*, till within theſe ſix or ſeven Years. ——He knows not from whence Cape *Hinlopen* took its Name.——That, when they ſailed in, by the Cape *Hinlopen* deſcribed in the Sea-Charts or Waggoners aforeſaid, they apprehended the Cape lay very near *Lewis* Town.

This is nothing to the purpoſe; the Defendant might have had 10,000 Witneſſes, who had only ſeen the *new modern* Maps, that might have ſaid *juſt the ſame* as Colonel *Colvill* does.

And theſe Witneſſes tell us, to whom *the Inhabitants* South of *Indian* River pay their Quit-Rents, but how *many* are *the* Inhabitants? Have they proved *ſeven*, *five*, or *three*, ſuch Inhabitants? I ſee not the leaſt Proof made by the Defendant, of any *one* Inhabitant or Settlement, there, made by *Maryland*; and indeed, it's a low, ſandy, unhealthy and unpleaſant Place, and will be the *laſt* that is ſettled, whoever it belongs to.

But, what is all this, and more of the ſame kind, to the purpoſe? My Lord ſays, that our Cape *Cornelius* was the Place *originally* called by the *Dutch*, and ſo deſcribed in *their Maps*, *Cape Hinlopen*, why then, *ſit Liber Judex*: Has my Lord proved *any one* Map *whatever*? No. Why has he not? Becauſe they moſt abſolutely falſify his Pretence, and lay down *both* Capes *exactly* according to his own Map.

Thomas Hynſon Wright, of *Maryland*, Eſq; the Defendant's own Witneſs only, and a *Surveyor*, aged 52. [*Lib.* G. *fol.* 251. *Int.* 14. *fol.* 259.] That he hath lookt upon the Plan, and is acquainted with *moſt* of the *Land* between the *main Ocean*, *Delaware Bay*, and *Cheſopeak Bay*, *as far Northward as* Newcaſtle; and that, after *the Agreement* made between the Plaintiffs and the Defendant, he this Deponent *was employed*, by the Defendant's Commiſſioners, *to go down and take a Review* of the Cape of *Delaware*, and the *Sea-Side*. And that, when he came to *Lewes* Town, he inquired of *ſeveral* of the *principal* Inhabitants there, for Cape *Henlopen*, particularly of *William Till*, *Rives Holt*, and one *Colleak*, and was ſhewed, by them, *a Point* for Cape *Hinlopen*, at the *South* Side of the *Mouth* of *Delaware*, which ſeems to be repreſented in the ſaid Plan by the Cape marked *Cape Cornelius*; and that the ſaid Cape bore, near Eaſt, about 4 or 5 Miles Diſtance, (as he was informed) from *Lewis* Town aforeſaid; and that, he, *afterwards*, went, from *Lewis Town* aforeſaid, to the *ſaid* Cape, and courſed the *Sea-ſide*, *along with a Compaſs*, *to the Mouth of* Indian *River*, which the Inhabitants there acquainted this Deponent they *computed* to be about 12 or 14 Miles from the ſaid Cape, and that the Courſe *thereof* was very near *South*; and that, *afterwards*, he, this Deponent, went to a Place, *called Phenix's Iſland*, which the Commiſſioners aforeſaid *informed him* that the *Plaintiffs Commiſſioners* deemed to be *Cape Hinlopen*, as deſcribed in the Exhibit aforeſaid. [Why did he not aſk *there* for Cape *Hinlopen?*] From which *laſt* mentioned Place, he run the Courſe of the Sea Shore, and meaſured the Diſtance of the Mouth of *Indian* River aforeſaid; and that *Indian* River bore about North 9 or 10 Degrees Eaſt, and diſtant about 8 *or* 9 *Miles from Phenix*'s Iſland: Saith that, as he went *along the Sea* Shore aforeſaid; he inquired for the *oldeſt* Inhabitants there, and *by them* was informed, that they *never* knew *or heard* of any Place called *Cape Hinlopen*, but *that Cape* near *Lewis* Town aforeſaid, until the Agreement aforeſaid; That the Courſe of the Sea-ſhore aforeſaid appears to this Deponent to be *untruly laid down* in the ſaid Exhibit; and that he does not know by *what* Name the Place marked Cape *Hinlopen* in the ſaid Exhibit, is called *by the Inhabitants* there; Hath *underſtood formerly*, that the Word *Hinlope* was *Dutch*, and that it ſignified leaping in, and therefore applied to the *Entrance* of *Delaware* Bay. Saith, that the ſaid Plan contained in the ſaid Exhibit is *incorrectly* made. That there are *divers* Rivers, *viz. Nauticoake*, *Choptank*, *Cheſter*, and *Saſſafras*, not laid down in the ſaid Map; and that he *believes*, that, if the ſaid Rivers *had been laid* down in the ſaid Map, the Tangent Line therein marked, would have *interſected the Heads thereof*, *and would have cut off navigable Waters* from *Nauticoak* and *Choptank*, if not from the *other* Rivers. [This is provided for, by my Lord's new Clauſe, if it *does*.] And the *Reaſon* of ſuch *his* Belief is, becauſe he traverſed the Courſes of the Roads, from *Lewis* Town to *Phenixes* Iſland, and from thence, into Queen *Anne*'s County in *Maryland*, and from thence to *Newcaſtle* aforeſaid, in order to *plat* the ſame, and diſcover *where* the Tangent Line would run. Saith, that if the Articles of Agreement aforeſaid, were carried into Execution, and the Place called *Phenixes* Iſland ſhould be *deemed Cape Hinlopen*, that the Defendant would *loſe* near 300,000 Acres of Land, which *he* never underſtood were *claimed as Part* of the three lower Counties aforeſaid.

This Witneſs does not tell us one ſingle Word, whether *there is*, or *is not*, the *Appearance of a Cape* at *Phenix*'s Iſland, which would have been very *material and natural* for him; and, as he was employed, as a *Surveyor*, in the Service of the Defendant, by the Defendant's own Commiſſioners, *purely to enquire* for the Cape, and to *view the Cape*, he certainly muſt have known or learned, *ſomething* about it, one *way or the other*; but he is not aſked *one Syllable* about it.

This Man, ſent down purpoſely, on *this* Errand, enquired at *Lewes* Town, in the Neighbourhood of the New Cape *Hinlopen*, of *ſeveral* of the *principal* Inhabitants, (and he names *three* only and no more) for Cape *Hinlopen*, and *they* ſhew'd him what is called in the Plan Cape *Cornelius*, near *Lewes* Town, and ſo will 1000 other Perſons, *now at this Time*, do.

He tells what *Courſe* the Sea Coaſt bears, and the Diſtance of ſeveral Places.

And he inquired of the *oldeſt* Inhabitants, and was informed by them, (but does not name *any one ſingle Perſon of them*) that *they* never heard of *any* Cape *Hinlopen*, but that near *Lewes* Town.

What Pity it is, this Gentleman, in his *Search* and *Enquiry*, had not found out any *one* of the many *Maryland* Witneſſes, and *Suſſex* County Witneſſes *both*, which the Defendant and the *Plaintiffs* found out, and *have examined*, *all* of whom knew, and could have told him *very well*, of *another* Cape *Hinlopen*, at *Phenix*'s Iſland, and which they have all *ſworn to* in this Cauſe.

You'll pleaſe to obſerve how cautious this Man is, he does not pretend that my Lord is *poſſeſſed* of, or has a *ſingle Tenant* upon the 300,000 Acres which he ſpeaks of.

Governor *Samuel Ogle* of *Maryland* aged 40. [*Lib.* G. *Fol.* 218. *Int.* 14. *Fol.* 226.] That he is acquainted with the *upper Part* of *Cheſapeak* Bay, and the Rivers *therein*, and the Country about *it*, *deſcribed* in the Exhibit or Plan; and that he *looks* upon the ſaid Map or Plan to be *very imperfect* and falſe; There being *ſome* Rivers *wanting*, and *others wrong deſigned and deſcribed*——That, from the *beſt Information* he has been able to get, he is *perſuaden* Cape *Henlopen* is *wrong laid down* in the ſaid Exhibit; and that, where Cape *Hinlopen* is laid down, in the ſaid Exhibit, there is *not the leaſt Appearance of a Cape* ——And that he *apprehends*, from the *beſt Information* he has been able to get, Cape *Henlopen* ſhould be laid down, where Cape *Cornelius* is laid down, in the ſaid Exhibit; and that for *about* 30 *Miles to the Southward* of the Place which *this* Deponent *apprehends* to be the true Cape *Hinlopen*, marked in the Exhibit Cape *Cornelius*, *there is a flat Shoar*, and *no Appearance of any other Cape* ——Saith, that he really believes the Exhibit aforeſaid was *contrived*, on purpoſe to deceive the Defendant, and that the Plaintiffs were privy to the Falſities and Miſrepreſentations (before the Execution of the Articles aforeſaid) *therein* made; and that it was *artfully conveyed* into the Defendant's Hands, *by the Plaintiffs or ſome of their Friends*. The *Reaſons* why the Deponent *believes* the ſaid Map *was not ſent* from *Maryland* to the Defendant, are, that he hath heard the late Governor and Mr. *Philemon Lloyd*, Secretary of *Maryland*, who had the principal Management of the Defendant's Affairs concerning the Boundaries of that Province, often *declare* that *they* had no hand in the making, or ſending it, nor could he ever learn that they, or any other Gentleman in *Maryland*, ever *heard* of Cape *Henlopen's* being where it is laid down in the Exhibit, before the Map, of which the Exhibit is a Copy, came into *Maryland with the Articles* of Agreement; and that the Deponent *can't conceive* how any Gentleman in *Maryland*, could ever *think of placing Cape Hinlopen* any where but at *the Whorekills*, ſince in the Deed of Feoffment from the Duke of *York* to Mr. *Penn*, it is called Cape *Henlopen*, alias the *Whorekills*; and the Deponent hath *never* heard of any Diſpute made about the Scituation of the *Whorekills*.

This Gentleman who, upon Oath, does not *believe* only, but abſolutely *knows*, the *Heart* of Man, (even at *firſt* Sight) and how much they know, and how little they know, happens to be wonderfully out in what he is *perſuaden* of, and in what he *apprehends*, (for *thoſe* are the governing Words of the former Part of his Depoſition) as to its being a *flat Shoar*, and there not being the *leaſt Appearance* of a Cape. For his Perſwaſions and Apprehenſions have the Misfortune to be flatly *contradicted* by many of his own Fellow Witneſſes, (but not *Governors*) and by many of ours likewiſe, all of which ſwear the *direct contrary*.

2dly, As to his real *Belief*, 1ſt, That the Plan was contrived to deceive the Defendant; 2dly, That the Plaintiffs were privy to the Falſities in it before the Execution of the Articles; and, 3. That it was *artfully conveyed* into the Defendant's Hands, by the *Plaintiffs*, or their Friends, any *one* of theſe 3 Things *proved*, had been exceedingly *material*, but no Step taken to prove *any one* of them, nor, any one *Reaſon* given, *why* he believes any one of thoſe Things.

My Lord himſelf, and his Sollicitor, both admit that the Plan was ſent to my Lord by *his own Agents*, whoever *they* had it from; but this Man goes higher, and believes that the *Plaintiffs*, or their Friends, conveyed it artfully into the *Defendant's Hands*; ſo that he out-does, and *contradicts*, his Maſter, and all, without the *leaſt Reaſon* given *why* he believes this.

Well, but he ſwears he *has ſome Reaſons* to believe *another* diſtinct Matter; namely, that the Map was *not ſent* from *Maryland*; and we will examine *thoſe* Reaſons, and ſee whether they *are* Reaſons to believe that *other* Matter from. Why firſt, he has aſked *two ſingle* Perſons, the late Governor and the Secretary, and they two *told* him they had no Hand in making or *ſending* it. But has he examined them as Witneſſes? No. Does he ſay either of them is dead? No. Suppoſe they told him what was falſe! Or, ſuppoſe they told him true, Has he aſked my Lord's Surveyors General, whoſe Buſineſs it was to make *Maps* and Plans? No. Can't my Lord tell *who it was* that he had that Plan, of *his own Province*, from? Does my Lord, or any one elſe, ſo much as pretend *to name*, or ſay, who the *Perſon was*, that delivered the Plan to him? No. Has he examined to prove that that Map was ever *ſeen* or *heard of*, in *Penſilvania?* No. Had not they an *Interrogatory* framed, on purpoſe to examine into that Matter? Yes, they had, their 5th croſs *Int. Lib.* H. *Fol.* 176. but they could find *nobody* proper to be examined upon it.

But 2dly, This Witneſs has *another* Reaſon to believe the Map could not be ſent from *Maryland*; for he could *never learn* that the late Governor, and the Secretary, or *any other Gentleman* in *Maryland*, *ever heard* of Cape *Hinlopen's* being where it is laid down in the Map. What Pity it is a Man, of ſo great *Knowledge*, ſhould be ſo *unwilling* to *learn*, what ſo many of his *own*, and of our Witneſſes (many of *Maryland*) *could have told* him, and have *ſworn*, that not only the *particular Place* was called Cape *Henlopen* by the *Dutch*, but that the *whole Country* thereabouts was called, after its Name, *Hinlopen?*

He can't *conceive* that *any* Gentleman in *Maryland* could ever *think* of placing Cape *Hinlopen* any where *but at* the *Whorekills*; ſince, in the Duke's Feoffment, it is called Cape *Hinlopen* alias the *Whorekills*; and he never heard of *any* Diſpute about the Scituation of the *Whorekills*; but are not we, at this Inſtant, and himſelf in this very Argument, conſidering the *Extent* of that large Diſtrict, called firſt *Whorekills*, and afterwards *Suſſex County?* And, however it may be expreſſed in the Duke's Feoffment, yet, ſurely, to Perſons, who have *ſeen* the *Dutch* Maps of 1663, and the *Engliſh* Map in 1671, both which laid down Cape *Henlopen* and Cape *Cornelius*, and laid down Cape *Hinlopen* at the Place *really called* by the *Dutch* Cape *Hinlopen*, and who know (as the Witneſſes do) that *that* Place *was called* Cape *Henlopen* by the *Dutch*, it would be no ſort of Impropriety for a *Marylander* to *think* that Cape *Hinlopen* lay, at a Place where *he knew it did* lay; and any Inaccuracy, if there was any, in the Duke's Feoffment in 1682, (and which is helped by the preſent Articles) would not determine a Man to make a Map of a Country *knowingly wrong*, becauſe that the Duke of *York* had, *once*, inaccurately expreſſed a Part of that Country, in ſome Deed of his, dated in 1682.

But, if he will have the *Duke of York* to explain where Cape *Henlopen* lay, that was ſo called by the *Dutch*, they may find it, in very clear explicite Terms, in the Patent which the *Duke* was obtaining, the Beginning of the very next Year 1683; which deſcribes it *exactly* according to *our* Evidence; and that Patent the Defendant *himſelf* has *proved* a Copy of, from the Signet Office, *in this Cauſe*.

The Defendant has croſs examined *eight* of *our* Witneſſes, upon ſome *printed Plan or Map* marked A, which I ſuppoſe was a Copy of his own Plan annexed to the Articles.

John Teague Lib. H. *Fol.* 43. *Int.* 3. *Fol.* 45.
Elizabeth Morris Lib. H. *Fol.* 26. *Int.* 3. *Fol.* 28.
John Muſgrove Lib. H. *Fol.* 34. *Int.* 3. *Fol.* 36.
William Peterſon Lib. H. *Fol.* 7. *Int.* 3. *Fol.* 10.
} Who all ſay they have looked upon that Exhibit, and don't *underſtand* it.

Samuel

Samuel Hollingſworth aged 67. [*Lib.* H. *Fol.* 29. *Int.* 3. *Fol.* 31.] Says he is unacquainted with the lower Part of *Delaware*, and tho' he *has heard* of Cape *Hinlopen*, *Cape Cornelius*, and the *Whorekills*, can give no particular Account of them. He does not remember to have heard of *Phenix*'s *Iſland*, [Note, he lives in *Cheſter* County in the upper Part of *Penſilvania*] That he knows *Chriſtiana* Creek, and takes that Creek in the Map, next above *Newcaſtle*, to be deſigned for it.

John Rambo of *New Jerſey*, *Farmer*, aged 79. [*Lib.* H. *Fol.* 19. *Int.* 3. *Fol.* 21.] He has looked upon the Plan, and he has never heard of any Cape called *Cornelius*; but that the Place, therein ſo marked, is *the* Place which he has *always* underſtood to have been called Cape *Hinlopen* ſince *he* has been acquainted with *thoſe* Parts. That he is acquainted with the *Whorekill* Creek, which runs into the Land, a little within the Cape marked in the Exhibit *Cornelius*; but knows nothing of *Phenix*'s *Iſland*——That he knows *Chriſtiana* Creek, which lies, as he believes, 3 or 4 Miles above *Newcaſtle*.

Note, This Witneſs, a Country Farmer, has juſt told us, in the next preceeding Interrogatory, that he was born and lived his firſt 20 Years up at *Philadelphia*, and the Reſidue of his Time in *another diſtinct* and more *remote* Province, *New Jerſey*, and was *never* but one Winter a Whaleing at the Places enquired after, and that 50 Years ago; and now, they are enquiring into his Knowledge, and his Underſtanding, of theſe Places.

Samuel Preſton aged 75. [*Lib.* H. *Fol.* 104. *Int.* 3. *Fol.* 106.] Has looked upon the ſaid Plan, and is acquainted with *the Place* marked therein Cape *Cornelius*; and *has* heard of the *Place* therein marked Cape *Hinlopen*. Says that the Place therein marked Cape *Cornelius* has generally, ſince *his* Knowledge of it been called *Inlopen*, and is diſtant from the Place in the ſaid Plan called Cape *Henlopen* about 25 Miles as he believes; Further ſays he has ſeen *ſome Maps* wherein the Place, called *Cornelius* in the ſaid Plan, *was called by the ſame Name Cornelius*. He knows the Place formerly called the *Whorekill* Town, and *Chriſtiana* Creek, and hath heard of *Phenix*'s Iſland——That the *Whorekill* Town lies near to the Place in the Plan marked Cape *Cornelius* —*Chriſtiana* Creek about 5 Miles above the Town of *Newcaſtle*. And believes that *Phenix* Iſland is about the Place marked Cape *Hinlopen*. Says that a *Creek* runs up by the *Whorekill* Town.

Thomas James a Pilot, aged 49. [*Lib.* H. *Fol.* 12. *Int.* 3. *Fol.* 13.] He has looked upon the Plan, and is acquainted, *by ſailing* into *Delaware* Bay, with the Place therein marked Cape *Cornelius*, which is *now called* Cape *Hinlopen*——That there is *another Place*, that *has the Appearance* of a Cape, to the *Southward* of the ſaid Cape, which has been *ſometimes* called Cape *James*, [pleaſe to mark it well, for our written Evidence proves that Mr. *Penn* ſo named it in 1682] ſometimes Cape *Hinlopen*, and ſometimes *the falſe Cape*; but whether this laſt be correctly laid down, or *not*, in the Exhibit, he *cannot ſay*, there being neither *Courſe* or *Diſtance*, expreſſed therein. That he is not acquainted with the Place called *Phenix*'s *Iſland*, but has ſeen the ſame from Sea——That he is acquainted with the Place formerly called the *Whorekills*——That it is ſcituate upon a Creek, formerly called by the *Dutch*, the *Whorekill* Creek, about four or five Miles within *the Cape* marked in the Exhibit Cape *Cornelius*. That he is likewiſe acquainted with *Chriſtine* Creek, which is a Creek ſcituate about 5 Miles above *Newcaſtle* in the Exhibit mentioned.

The Defendant, ſurely, was afraid we ſhould not *ſufficiently* falſify his Anſwer, and prove our *true* Cape *Hinlopen*, and ſo he takes Care to *ſupply* us with *more* and *further* Proof of it.

And thus ends all the Proofs: wherein it appears moſt *marvellous* that the Defendant, who builds his *whole Pretence of Impoſition* in that *his own* Map did not lay down Cape *Hinlopen* where the *Dutch Maps* did, has never attempted to produce *one ſingle* Map, to ſupport that Aſſertion.

Another material *Omiſſion* on the Defendant's Part is, that he has not proved that *original Map* which *he* produced and marked with his own Hand; and why? It is not that that is wanting, for *Paris* ſwears that Mr. *Sharpe* had it again from Mr. *Senex*, and Mr. *Sharpe now* ſwears that the printed Map *is* an *exact* Copy of it. But it is for *this* Reaſon, they know (and ſo *Paris* ſwears) that that *original* Map had *many Marks, and Lines, and Notes about it*, relating to the *Circle*, and *therefore* the Defendant conceals that *original* Map of his, becauſe it would convict him.

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